

## Legal Focus



### U.S. Northern Command

**Defense Implications of Demographic Trends**

**Underlying Assumptions of the  
National Security Act of 1947**

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE <b>2008</b>		2. REPORT TYPE		3. DATES COVERED <b>00-00-2008 to 00-00-2008</b>	
4. TITLE AND SUBTITLE <b>Joint Force Quarterly. Issue 48, 1st Quarter 2008</b>				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) <b>National Defense University, Joint Force Quarterly, 300 Fifth Avenue, Fort Lesley J. McNair, Washington, DC, 20319-5066</b>				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT <b>Approved for public release; distribution unlimited</b>					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT <b>Same as Report (SAR)</b>	18. NUMBER OF PAGES <b>148</b>	19a. NAME OF RESPONSIBLE PERSON
a. REPORT <b>unclassified</b>	b. ABSTRACT <b>unclassified</b>	c. THIS PAGE <b>unclassified</b>			

# Inside

Issue 48, 1<sup>st</sup> Quarter 2008

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**U.S. Government Printing Office**

Printed in St. Louis, Missouri



NDU Press is the National Defense University's cross-component, professional, military, and academic publishing house. It publishes books, policy briefs, occasional papers, monographs, and special reports on national security strategy, defense policy, national military strategy, regional security affairs, and global strategic problems. NDU Press is part of the Institute for National Strategic Studies, a policy research and strategic gaming organization.

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1<sup>st</sup> Quarter, January 2008  
ISSN 1070-0692



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## CORRECTION

In *JFQ* 47 (4<sup>th</sup> Quarter 2007), Lieutenant Colonel Dennis J. Blasko, USA (Ret.), was incorrectly identified as Defense Attaché in his biographical sketch. Lieutenant Colonel Blasko served as Army Attaché in Beijing.



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The opinions, conclusions, and recommendations expressed or implied within are those of the contributors and do not necessarily reflect the views of the Department of Defense or any other agency of the Federal Government.



### ABOUT THE COVERS

The front cover shows Army and Navy guards escorting a detainee to his cell at Camp One, Guantanamo Bay Naval Base (JTF–Guantanamo/Michael Billings). The table of contents shows (left to right) Soldier setting up communications during Texas hurricane exercise (DOD); Sudanese woman weeps after bandits raid her village's livestock (UN/Tim McKulka); underground nuclear test at Nevada Test Site in 1962 to show atom bombs could be used for engineering (Department of Energy); and members of Nebraska National Guard and Alaska Air National Guard in exercise Alaska Shield/Northern Edge 2007 (U.S. Navy/Greg Bingaman). The back cover shows (clockwise from top) V–22 Osprey practices touch-and-go landings aboard USS *Kearsarge* (U.S. Navy/Oscar Espinoza); vapor forms around F–22A Raptor during a maneuver (U.S. Navy/Jason R. Williams); Delta II rocket carrying NRO satellite launches from Vandenberg Air Force Base (U.S. Air Force/Richard Freeland); and Soldier points satellite antenna to establish communications during weapons retrieval operation in Iraq (30<sup>th</sup> Satellite Communications Squadron/Samuel Bendet).

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*Joint Force Quarterly* is published by the National Defense University Press for the Chairman of the Joint Chiefs of Staff. *JFQ* is the Chairman's flagship joint military and security studies journal designed to inform members of the U.S. Armed Forces, allies, and other partners on joint and integrated operations; national security policy and strategy; efforts to combat terrorism; homeland security; and developments in training and joint professional military education to transform America's military and security apparatus to meet tomorrow's challenges better while protecting freedom today.

# DEADLINE

## Approaching

### for JFQ Issue 50



FEATURING:

## Focus on Naval Power

AND

## U.S. Central Command

Submissions Due by  
**March 1,  
2008**

JFQ Issue 51

Featuring:

## Weapons of Mass Destruction National Security Council

Submissions Due by  
**June 1, 2008**

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# JFQ Dialogue

## Open Letter to JFQ Readers

*Joint Force Quarterly* gratefully acknowledges the superior support it has received from the leadership of Joint Task Force Guantanamo in the development and illustration of articles in this issue.

Every month, *Joint Force Quarterly* receives numerous submissions from Soldiers and Airmen addressing new ways of doing business on land, in the air, and even in space. From naval officers, however, the silence concerning their core competencies is evident. Has the final word been written on naval strategy? *JFQ* is looking for modern-day Alfred Mahans and Julian Corbetts and calls upon them to contribute their ideas on naval strategy and doctrine. The joint warfighting community might learn and benefit from naval thinkers' responses to such questions as:

- What can be said about the modern context of U.S. naval operations and the Navy's strategic employment?
- As the U.S. fleet shrinks and others expand, what implications should joint Service officers draw for future planning and procurement?
- In the face of dwindling strategic airlift and merchant marine sealift, can high-speed surface vessels such as the *Swift* fill the logistic gap?
- Are naval operations and doctrine evolving in the face of global military and technological developments?
- Can the U.S. shipbuilding industry respond to emergency production demand?

The forthcoming 50<sup>th</sup> issue of the Chairman's journal focuses on naval power, the continued relevance of the maritime component, and its transformation. *JFQ* encourages you to submit essays and help educate the joint, interagency community on the latest naval thought in this upcoming issue.

**The JFQ staff would also like to solicit manuscripts on specific subject areas in concert with future thematic focuses. The following topics are tied to submission deadlines for upcoming issues:**

**March 1, 2008** (Issue 50, 3<sup>d</sup> quarter 2008):  
Focus on Naval Power  
U.S. Central Command

**September 1, 2008** (Issue 52, 1<sup>st</sup> quarter 2009):  
Joint Interagency Cooperation  
U.S. Transportation Command

**June 1, 2008** (Issue 51, 4<sup>th</sup> quarter 2008):  
Weapons of Mass Destruction  
National Security Council

**December 1, 2008** (Issue 53, 2<sup>d</sup> quarter 2009):  
Transformation and Innovation  
U.S. Africa Command

*JFQ* readers are typically subject matter experts who can take an issue or debate to the next level of application or utility. Quality manuscripts harbor the potential to save money and lives. When framing your argument, please focus on the *So what?* question. That is, how does your research, experience, or critical analysis improve the reader's professional understanding or performance? Speak to the implications from the operational to the strategic level of influence and tailor the message for an interagency readership without using acronyms or jargon. Also, write prose, not terse bullets. Even the most prosaic doctrinal debate can be interesting if presented with care! Visit [ndupress.ndu.edu](http://ndupress.ndu.edu) to view our NDU Press Submission Guidelines. Share your professional insights and improve national security.

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*HMS Illustrious, USS Harry S. Truman, and USS Dwight D. Eisenhower participate in multiship exercise as part of Operation Bold Step*

U.S. Navy (Jay C. Pugh)



DOD (Cherie A. Thurlby)

**Admiral Michael G. Mullen, USN, takes the oath of office of the Chairman of the Joint Chiefs of Staff from outgoing Chairman, General Peter Pace, USMC**

## Priorities and Strategic Objectives of the Chairman of the Joint Chiefs of Staff

**The following is an excerpt from the Chairman's Guidance to the Joint Staff for 2007–2008**

*1. Develop a strategy to defend our national interests in the Middle East.* Our immediate concern remains the wars in Iraq and Afghanistan. But we cannot dismiss the efforts by other state and nonstate actors to foment instability in the Middle East. The increasingly hostile role being played by Iran; the Israeli-Palestinian conflict; Sunni-Shia rivalries; the rise of radical jihadists; and the resurgence of al Qaeda all threaten to tear at fragile seams and all bear directly on the security of the United States. We need a strategy to manage U.S. military presence in the Middle East that adversaries must take seriously and which reassures our friends, allies, and partners.

Therefore, we will:

- Develop a comprehensive Middle East security strategy, tied to a larger global view but focused on our vital national interests. This effort will address long-term security in Iraq and Afghanistan, potential threats from Iran, and movement toward reducing major

sources of conflict, with a goal of ultimately achieving regional stability.

- Ensure that our strategic plans are sustainable over time and provide flexibility for escalation, de-escalation, and a wide range of options.
- Integrate our capabilities within the interagency process to develop and execute this long-term strategy, while leading in the interagency community wherever appropriate.
- Improve international cooperation in the region.

*2. Reset, reconstitute, and revitalize the Armed Forces . . . particularly ground forces.* Though recruiting and retention figures remain good and morale is still high, we cannot take for granted the service of our people or their families. We must rapidly mitigate the toll that our current pace of operations is taking on them, our equipment, and our ability to respond to other crises and contingencies. We must recognize that new asymmetrical threats call for different kinds of warfighters, mission systems, and strategies. We need to be smarter, lighter, more agile, and more lethal. Only by applying our own asymmetric advantages—our people,

intellect, and technology—and by maintaining a force correctly shaped, sized, trained, and equipped can we adequately defend the Nation.

Therefore, we will:

- Determine the true health of our ground forces in terms of people, training, equipment, and family support to ensure these forces are ready to serve effectively over the long term and across the full spectrum of operations.
- Provide clear estimates of resetting our units in each Service and Defense agency. Assess how long it will take and what resources will be necessary to regain full-spectrum capabilities across all our forces. We must make this issue a priority in our program and budget process and prepare to execute it in the long term without substantial support from supplemental funding.
- Improve the capabilities of our Reserve Component as it continues to become a more relevant contributor to the operational joint force. We must also ensure that it preserves a significant “strategic reserve” capability and capacity.
- With an understanding of its unique domestic responsibilities, support National Guard Bureau efforts to improve readiness, leverage existing forces, streamline organizations, and make units leaner, smaller, and more effective. We must likewise ensure that the National Guard preserves its own strategic reserve capability and capacity.
- Improve requirements, acquisition, and technology development efforts to ensure rapid, predictable delivery of needed combat capabilities to our warfighters.
- Develop and help integrate realistic, complementary, jointly interdependent, prioritized Service modernization plans.
- Develop implementation plans to ensure effective execution of pending Base Realignment and Closure and joint basing initiatives.
- Engage in the development of a broad-based, flexible, effective, and affordable joint military health care system that provides superb care for combat wounded (to include Post-Traumatic Stress Disorder/traumatic brain injury patients), and improves wellness initiatives, military care, family care, and retiree care.
- Prepare plans, to include strategy-driven prioritization, in order to sustain and modernize our joint forces during a time of civilian administration transition and potential fiscal constraints.

**Admiral Michael G. Mullen, USN, was sworn in October 1, 2007, as the 17<sup>th</sup> Chairman of the Joint Chiefs of Staff.**

3. *Properly balance global strategic risk.* We must stay mindful of our many global security commitments and of the core warfighting capabilities, resources, and partnerships required to conduct operations across the full spectrum of peace and conflict. A larger, longer view of risk assessment that helps us maintain a position of global leadership and preserves our freedom of action remains critical. I want the Joint Staff focused on rebalancing strategic risk.

The demands of current operations—however great—should not dominate our training exercises, education curricula, and readiness programs. The conflicts in Iraq and Afghanistan will one day end. We must be ready for who—and what—comes after.

What “comes after” is hard to predict. Conflict in the future will most likely—but not exclusively—demand increased precision, speed, and agility. We may face state as well as nonstate enemies, including some who may only appear in cyberspace. The target could be America’s infrastructure and the new weapon could be a computer-generated attack on critical networks and systems. It could just as likely be a chemical, biological, or nuclear weapon of mass destruction.

Future war may therefore be borderless, or it could exist completely within the confines of small, urban areas. It may require of our people skills that they do not yet possess and capabilities we do not yet field. In some conflicts, information and nonkinetic means may prevail, while in other places at other times only “boots on the ground” and precisely delivered fires will carry the day.

The American people expect the Armed Forces to maintain sufficient capability and capacity to deter and, failing that, defeat all such military threats to their security and the security of our vital national interests: a homeland secure from attack; sustained global influence, leadership, and freedom of action; sustained strategic endurance and military superiority; flourishing global and national economies; assured access to strategic resources; and regional stability in the Middle East.

Where conflict threatens these interests, U.S. forces must be able to rapidly respond, providing political leadership with a range of options for deterrence, escalation, and de-escalation, in coordination with other elements of national and multinational power.

Therefore, we will:

- Develop—through the combatant commanders and in cooperation with our partners—integrated theater engagement plans that strengthen relationships with enduring allies, improve ties to emerging partners, and engage and better understand potential competitors.

- Build and reinvigorate relationships through Theater Security Cooperation with a focus on capacity-building, humanitarian assistance, regional frameworks for improving governance, and cooperation in enforcing the rule of law.

- Rapidly develop an enduring cultural, historical, and linguistic expertise in our total force to ensure effective interaction with diverse international partners.

- Establish and quickly achieve reasonable goals and expectations for deployment rotations of our Active, Reserve, and National Guard Bureau Components. For our Active forces, this deployment-to-dwell ratio should be no greater than 1 to 1 in the near term with a view toward an equilibrium level of 1 to 2 while at war.

- Since the vast majority of focus in people and capability resides in the U.S. Central Command area of responsibility (and rightly so), work to rapidly rebalance this capability when conditions permit.

- Pursue a comprehensive approach to deterrence. Put in place a new concept of strategic deterrence for the 21<sup>st</sup> century in terms of training, equipping, theory, and practice appropriate to a range of state and nontraditional threats in both nuclear and conventional realms.

- Develop an effective military strategy for cyberspace to protect and defend against infrastructure attacks, reduce our vulnerabilities, and ensure our capability to operate in this vital realm.

Underpinning these priorities and strategic objectives is our responsibility to preserve the trust and confidence of the American people. To the degree we allow ourselves to disconnect from them, we allow the very foundation upon which our success rests to crumble—not only in terms of recruiting and resource allocation, but also in terms of the moral support so critical for the preservation of an all-volunteer force. Every action we take, every day, must be executed in a way that strengthens and sustains the public’s trust and confidence in our ability and our integrity.



## NEW Books from NDU Press



### **African Counterterrorism Cooperation: Assessing Regional and Subregional Initiatives**

*edited by Andre Le Sage*

Africa is a continent of growing strategic importance in the war on terror.

This book summarizes terrorist threats in each African economic region and examines counterterrorism efforts on the continent as a whole. Edited by Dr. Andre Le Sage, Assistant Professor of Counterterrorism at the Africa Center for Strategic Studies.

229 pp.

ISBN: 978-1-59797-177-5 Softcover \$25.00

ISBN: 978-1-59797-176-8 Hardcover \$50.00



Published for the Africa Center for Strategic Studies by National Defense University Press and Potomac Books, Inc.



### **Capacity Building for Peacekeeping: The Case of Haiti**

*edited by John T. Fishel and Andrés Sáenz*

In 2004, the international community found it necessary to intervene in Haiti yet again. For the first time under

a United Nations mandate, Latin American countries stepped up to lead the mission. In this book, distinguished scholars and practitioners of peacekeeping offer their countries’ perspectives on the Haiti missions. Edited by John T. Fishel, former Research Director and Professor Emeritus at the Center for Hemispheric Defense Studies, and Andrés Sáenz, former Professor at the Center and now Deputy Director of Colombia’s national intelligence agency.

221 pp.

ISBN: 978-1-59797-123-2 Softcover \$40.00

Published for the Center for Hemispheric Defense Studies by National Defense University Press and Potomac Books, Inc.

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JFQ readers qualify for a 25 percent discount and should use the following code when ordering the above books: ND0108.

# Joint Doctrine Update

## Joint Chiefs of Staff J7 Joint Education and Doctrine Division

With the backdrop of today's strategic security environment and the prosecution of the war on terror, a wide variety of threats, including international terrorism, organized crime, narcotics trafficking, and proliferation of weapons of mass destruction, continue to pose challenges to U.S. national security. Joint Publication (JP) 3-27, *Homeland Defense*, the newest publication added to the joint doctrine hierarchy, states, "Defense of the homeland is the Department of Defense's highest priority with the goal to defeat threats at a safe distance from the homeland." As the Department of Defense (DOD) holds responsibility for the homeland defense mission, it assumes the lead for homeland defense response. Promulgation of this recently approved publication may serve to bring the interagency community onto common ground through a comprehensive approach toward this national responsibility.

JP 3-27 arrived at an opportune time; the Chairman recently approved the latest revision of the keystone intelligence publication, JP 2-0, *Joint Intelligence*, and the joint doctrine development community revised JP 3-07.4, *Joint Counterdrug Operations*. Authoritative guidance captured from fundamental best practices within these documents offers a validated joint perspective from which joint force commanders may counter the wide array of threats.

JP 2-0 establishes 10 principles of joint intelligence in an effort to combine intelligence theory and operating experience that contribute to effective joint intelligence operations. These principles include perspective (thinking like the adversary), synchronization, integrity, unity of effort, prioritization, excellence, prediction, agility,

collaboration, and fusion. JP 2-0 underscores the importance of the ability to think like the adversary, accept risk in predicting an adversary's intentions, and leverage expertise of diverse analytic resources.

JP 2-0 adds new terms to the DOD dictionary. For example, the use of the term *red teams* provides commanders with an independent capability to fully explore alternatives from the perspective of adversaries and others. Deemed as critical to a commander and staff for understanding an adversary and visualizing the operational environment, red team became validated within joint doctrine. JP 2-0 also introduces new definitions for terms such as *biometrics*, *dynamic threat assessment*, *joint intelligence operations center*, and *obstacle intelligence*.

JP 3-07.4 revises the discussion of the drug threat and updates the coverage on counterdrug policy and guidance to combatant commanders. It relates counterdrug planning to the joint operational planning and execution system and expands coverage of interagency and multinational considerations. The publication also adds appendices on counterdrug organizations, intelligence support organizations, and the National Interdiction Command and Control Plan.

Defeating threats at a safe distance from the homeland requires sound intelligence discipline, experience, and processes. A comprehensive approach to defense, interagency, multinational, and private sector considerations should be the goal. With this in mind, doctrine development and revision continues.

For access to joint publications, go to the Joint Doctrine, Education, and Training Electronic Information System Web portal at <https://jdeis.js.mil> (dot.mil users only). For those without access to .mil accounts, go to the Joint Electronic Library Web portal at <http://www.dtic.mil/doctrine>.

### Joint Publications (JP) Revised Calendar Year 2007, 4<sup>th</sup> Quarter

JP 1, *Doctrine for the Armed Forces of the United States*

JP 1-04, *Legal Support to Military Operations*

JP 2-0, *Joint Intelligence*

JP 2-03, *Geospatial Intelligence Support to Joint Operations*

JP 3-01, *Countering Air and Missile Threats*

JP 3-03, *Doctrine for Joint Interdiction Operations*

JP 3-05.1, *Joint Tactics, Techniques, and Procedures for Joint Special Operations Task Force Operations*

JP 3-07.4, *Joint Counterdrug Operations*

JP 3-07.5, *Noncombatant Evacuation Operations* (renumbered as JP 3-68)

JP 3-13.1, *Electronic Warfare*

JP 3-15, *Barriers, Obstacles, and Mine Warfare for Joint Operations*

JP 3-16, *Multinational Operations*

JP 3-27, *Homeland Defense*

JP 3-33, *Joint Task Force Headquarters*

JP 3-34, *Joint Engineer Operations*

JP 3-35, *Joint Deployment and Redeployment Operations*

JP 3-50, *Personnel Recovery*

JP 3-60, *Joint Doctrine for Targeting*

### Joint Publications Near Revision Calendar Year 2007, 4<sup>th</sup> Quarter

JP 3-04, *Joint Tactics, Techniques, and Procedures for Shipboard Helicopter Operations*

JP 3-07.3, *Peace Operations*

JP 3-28, *Civil Support*

JP 3-63, *Joint Doctrine for Detainee Operations*

JP 4-0, *Doctrine for Logistic Support of Joint Operations*

JP 4-01.5, *Joint Tactics, Techniques, and Procedures for Transportation Terminal Operations*

# JLASS: Celebrating 25 Years of Educating Future Leaders

By SEAN R. CONNORS and THEODORE P. OGREN

**T**he academic year is well under way at the Services' senior level colleges (SLCs). At each college, an elective course is entering its 25<sup>th</sup> year of educating the Nation's future leaders of strategic and operational art. That course is the Joint Land, Aerospace, and Sea Simulation (JLASS). The centerpiece of this unique course, which focuses on joint campaign planning and execution, is a dynamic unscripted wargame set 10 years in the future.

Designed to challenge tomorrow's strategic leaders and thinkers, JLASS continues to be the only course offered and jointly run by all joint professional military education (JPME) SLCs. Over 100 students participate in JLASS each year, and over 1,000 have benefited since its inception.

In the course, senior field grade officers, equivalent Defense Department civilians, and colleagues from other U.S. Government agencies are challenged to address strategic and operational problems. JLASS places emphasis on combating weapons of mass destruction (WMD) threats and homeland security issues, as well as traditional and nontraditional challenges in almost every combatant command area of responsibility, striving to stay one step ahead of emerging threats to national security. JLASS has evolved since its inception and today replicates critical national security threats facing the United States in the post-Cold War and post-9/11 world.

## What Is JLASS?

Federal law and joint directives task each of the senior level colleges to provide education in the strategic and operational employment of the Armed Forces in conjunction with the other instruments of national power. JLASS is one of the primary



Maxwell Air Force Base (Melanie Rodgers)

Student participates as member of Multinational Force Morocco under USEUCOM at Air Force Wargaming Institute

vehicles for the advanced study of these topics. The simulation expands participants' understanding of the interagency, multinational/joint staff, and unified combatant command issues by employing forces to execute national- and theater-level strategies. It prepares joint warfighters by providing the opportunity to develop, apply, and adjust theater strategies.

JLASS is the only joint course that explores Service capabilities in a learning environment that not only allows but also encourages risk-taking. It places students in a high pressure but nonthreatening situation and allows them to learn to ask the right questions, explore military options in support of political objectives, and experiment by employing innovative teaching concepts at a pivotal time in their careers.

## Evolution

While JLASS is a critical component of JPME for future leaders, the exercise is by no means new. In fact, JLASS has a long and proud tradition that officially began when a series of computer-assisted simulations called CARMAX (for Carlisle and Maxwell) was

held from 1983 to 1985. CARMAX played the Air-Land Battle in the Allied Forces Central Europe area of responsibility (AOR), and the exercise was conducted simultaneously at the U.S. Army War College and the Air War College using a microcomputer interface for communication.

These pre-Goldwater-Nichols Act exercises established the JLASS pedigree as the cutting edge educational exercise. The CARMAX project produced better understanding between the Army and Air Force war colleges regarding procedures, doctrines, and operations—the foundation of jointness. Portions of the CARMAX simulation were incorporated into exercises within the core curricula of both colleges. CARMAX achieved its objectives by 1985, and a new series of exercises was established to include sea and space along with air and land dimensions.

The transformed series was renamed the Joint Land, Aerospace, and Sea Simulation and was sponsored by the SLCs from 1986 to 1988. Exercises in this series included April 1986 (Central Europe) in a partially distributed exercise; April 1987 (Korean Peninsula) at the

Sean R. Connors interned at the Industrial College of the Armed Forces (ICAF) from January 2006 through May 2007. Colonel Theodore P. Ogren, USAF, is the Chairman of the Joint Chiefs of Staff Chair at ICAF.

Naval War College; and May 1988 (Korean Peninsula) at the Air Force Wargaming Institute (AFWI). A second series of exercises was agreed on for the next 5 years (1989–1993), and a third series from 1994 to 1998. All exercises were held at AFWI and used the U.S. Pacific Command as the theater of war.

### **JCLASS Today**

As JCLASS begins its 25<sup>th</sup> year, its goal continues to be addressing key issues regarding the strategic and operational levels of national security. JCLASS accomplishes this by enhancing and expanding participants'

portals, telephone, video teleconferences, and face-to-face meetings. This year, students will switch from the AFWI-sponsored Web site to tools within Collaborative Force Building Analysis, Sustainment, and Transportation (CFAST) for their distributed collaboration. The completion of national strategies and regional campaign plans closes out the distributive phase for each school. In mid-April, phase two (exercise phase) begins at Maxwell Air Force Base. There, during a week-long execution phase, students exercise campaign plans during an unscripted wargame.

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*the simulation prepares joint warfighters by providing the opportunity to develop, apply, and adjust theater strategies*

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awareness of the interagency process and joint staff and unified command issues by employing diplomacy and joint and multinational forces to execute national- and theater-level strategies. Thus, students must translate national security and military strategy/objectives into theater campaigns while employing all elements of national power; designing and using theater command and control procedures and relationships; applying an understanding of U.S. military force structure, capabilities, and limitations; and demonstrating a comprehension of the challenges facing a joint/multinational force employing future military and commercial systems.

JCLASS consists of two phases: a distributive phase conducted from October through March, and an exercise phase consisting of a dynamic, intensive, and unscripted week-long wargame held in April at the AFWI. To ensure that students focus on future threats and issues and do not limit themselves to fighting current threats and wars, the course and its exercise are projected 10 years into the future. The situations the students are given to focus on and plan against are initially presented in a World Summary document and video. Over the course of the distributive phase, they receive regular briefings in the form of scenario updates and intelligence reporting. The distributive phase is devoted to joint campaign planning course work at each of the participating schools. During this phase, collaboration among schools is an essential component, and the students interact via an AFWI-sponsored Web site, Web-based

This two-phase structure exposes participants to a broad range of challenges, such as countering the proliferation of WMD and consequence management, cyber and physical attack against the U.S. electrical power grid, major earthquakes, freedom of navigation in international and contested waters, tensions between China and Japan or China and Taiwan, the challenges facing U.S. Africa Command (USAFRICOM), threats to global energy supplies, piracy, insurgency, border disputes, and the war on terror. To address these challenges, each college's student team assumes the role of a critical component of the national security establishment.

### **Combatant Commands and National Security Apparatus**

The Service colleges play the role of the geographic combatant commands, organizing their students in Joint Staff fashion with the objective of translating national strategies into operational plans. For example, the U.S. Army War College plays U.S. European Command (USEUCOM), the Naval War College plays U.S. Pacific Command (USPACOM), the Air War College plays U.S. Central Command (USCENTCOM), and the Marine Corps War College plays U.S. Northern Command (USNORTHCOM).

At the National Defense University, the National War College (NWC) is in its third year playing the role of U.S. Special Operations Command (USSOCOM), while the Industrial College of the Armed Forces (ICAF), in addition to playing U.S. Transportation Command (USTRANSCOM) and the

**Class members conduct mock press conference**



Defense Logistics Agency (DLA), plays multiple national level departmental roles, including the National Security Council (NSC).

During JCLASS 2007, the students confronted a host of issues and challenges. A rundown of the combatant command AORs and the national level challenges illustrates the diversity of issues that are dealt with within this single course.

**USEUCOM.** Students from the Army War College dealt with issues surrounding a North African nation confronting both internal attacks by two insurgent groups with varying agendas and an invasion by a rogue nation that possibly had WMD capability supplied by another state, along with dealing with a reluctant U.S.-led coalition. Additionally, there were "loose-nuke" issues elsewhere within the AOR that had to be planned against and dealt with. Students experienced the entire spectrum of operations as they transitioned from counterinsurgency to major combat operations, to stability, security, transition, and reconstruction, and finally to a follow-on North Atlantic Treaty Organization peacekeeping force. They were also routinely challenged to sort out command and control options for complex issues, such as counterterrorism special operations and global strike



Maxwell Air Force Base (Melanie Rodgers)

dents from each of the four Services plus one from the State Department) crafted a creative theater security cooperation plan that established centers of excellence throughout the region to combat terrorism. These centers, hosted by seven nations in cooperation with USPACOM, organized, engaged, and supported other regional partners to deter and defeat not only terrorism but also piracy and illicit trafficking in the AOR, thereby enhancing regional stability. At the same time, they had to plan military options to defuse rising tensions brought on by the Chinese military occupation of China-Japan disputed islands and oil resources in the East China Sea, while dealing with a significant humanitarian crisis complicated by rogue elements within a newly reunified Korea.

**USCENTCOM.** Within this AOR, the focus was Iran. But not all students were on the Blue Team. While it was common in past years to have multiple student cells playing adversary countries, this year only the Air War College fielded a student Red Team. Other Red Teams were played by faculty and JCLASS staff. The Iran team, led by “Supreme Leader” Colonel Brian Searcy, USAF, presented Blue a worthy adversary by effectively applying lessons on effects-based campaign plans and integrating Iranian instruments of national power. On the other side of the emerging conflict, Colonel Marcus De Oliveira, USA, and his joint staff of 16 military officers and 2 Defense civilians developed

continental nuclear missile to exercise the North American Aerospace Defense Command function. To contend with these challenges, students had to understand maritime law and navigation, nonstandard WMD (a deliberate explosion of commercial chemical products), and defense support to civilian authorities.

**USSOCOM.** Representing the National War College, Colonel Valerie Jircitano, USA, and her team of eight acted as the supported command for the war on terror and the force provider for Special Operations Forces. With all that was going on in the 2017 JCLASS world, their forces were much in demand. The wargame allowed students to strategically synchronize missions with other national and international activities. According to Colonel Jeff Cairns, USA, NWC faculty and JCLASS USSOCOM cell lead, “the students got credible feedback regarding the daily moves as well as the most realistic media training available. Overall, USSOCOM students achieved the course objectives in a superb manner.”

**USTRANSCOM and DLA.** Also in high demand were transportation and supply resources. The six-student cell from ICAF, led by Lieutenant Colonels Jim MacFalane and Buddy Berry, both USAF, adapted joint distribution process owner concepts to move forces globally and keep them supplied. Often out of sight, but truly vital for strategic and operational success, the resourcing component enabled combatant commander plans to become reality. As noted by Paul Needham,

options for WMD prosecution that simultaneously involved multiple combatant commanders. This year, Army War College students will be even further challenged as they take on the role of USAFRICOM in dealing with those crises.

During the exercise phase, there was a defining moment that illustrated a unique aspect of JCLASS. The USEUCOM commander was at odds with key members of the Departments of State and Defense on the best course of action in the reconstruction phase. Should a major Asian power lead the effort as requested by the host nation? Or should it be a coalition of those on more friendly terms with the United States? In the end, working with other affected combatant commanders, the team was able to persuade the host government and secure approval from the President and Secretary of Defense for the latter.

**USPACOM.** Students from the Naval War College confronted a number of challenges in the enormous region that composes the USPACOM AOR. They exercised the operational art of integrating military options with all the instruments of national power in a largely maritime environment. Their commander, Colonel Robert Oltman, USMC, and his joint staff (comprising stu-

and executed their USCENTCOM effects-based campaign. The free play between teams permitted ample educational feedback to all participating students, though not necessarily in the form of successful outcomes. For example, the Strait of Hormuz was shut down, causing a U.S. and global economic upheaval and driving the United States to tap into its strategic petroleum reserve.

**USNORTHCOM.** On the home front, after supporting civil agencies in earthquake relief, students from the Marine War College were “put through their paces” developing theater plans to cope with, sequentially, a large power grid failure due to terrorist attack, a cargo ship carrying hazardous cargo acting as a WMD, and the threat of a rogue intercon-

ICAF faculty and USTRANSCOM and DLA cell lead, “without proper logistical planning, strategic operational concepts are just dreams.”

**NSC.** The remaining 16 ICAF students were “stretched thin developing and translating U.S. national security objectives in numerous JCLASS National Security Council meetings in crisis mode,” according to Ambassador Robin Sanders, ICAF International Affairs advisor and prominent JCLASS 2007 faculty team member. Led by Colonel Kent Jacocks, USA, the student National Security Advisor, the team “stepped up to the plate” as top Department of State, Department of Defense, Department of Homeland Security, Department of Justice, White House Press, Coast Guard, national intelligence,

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*each college's student team assumes the role of a critical component of the national security establishment*

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and Joint Staff leaders. They integrated all elements of national power, drawing praise from the JCLASS U.S. President, Colonel Mike Pasquarett, USA (Ret.), a professor at the Army War College—the only exercise role played by JCLASS faculty.

### **Game Support**

JCLASS game support is not limited to Professor Pasquarett and each school's team of two to eight faculty members. Key to integrating the occasionally competing demands of each school's learning objectives is the JCLASS exercise director and JCLASS Steering Group chair, Colonel Mike Gould, USA, and his assistant, Ritchie Dion, both on staff at the Center for Strategic Leadership at the U.S. Army War College. Their leadership helps to maintain the game on an even keel and to bring in support from many other U.S. Government organizations. Highlighting the potential that each JCLASS student possesses, Colonel Gould kicks off the execution phase and completes the after action review. According to Colonel Gould, "Someone in the room is the next Dick Cody, or combatant commander, or Secretary of State. This exercise is a freebie of sorts, an opportunity to be involved in an experiential learning venue that addresses the most complex strategic and operational issues our faculty can design."

Two noteworthy organizations supporting JCLASS are the Joint Special Operations University (JSOU) and the Joint Requirements Office for Chemical, Biological, Radiological, and Nuclear Defense (JRO-CBRND). Lieutenant Colonel Dennis Kilcullen, USA (Ret.), leads a team from JSOU providing current expertise and advice to all the participants and faculty on emerging special operations organization and doctrine. Combating WMD expert Colonel Roy Williams, USA (Ret.), on loan with his people from the JRO-CBRND, helps form realistic scenario input and mentor students in developing counterproliferation and consequence management plans. In addition to these two organizations, and rounding out support staff expertise, are representatives from the U.S. Strategic Command, Coast Guard, and Department of State, all making unique contributions.

With so many roles played in JCLASS, who plays the rest of the world? Colonel Lee Blank, USAF (Ret.), a 14-year JCLASS veteran, and his "Green Cell" team from the National Strategic Gaming Center provide a continuous stream of answers to student questions about other countries' intentions and role-

play an occasional foreign ambassador, U.S. state Governor, or Member of Congress. They represent the world to the students during the daytime game play. At night, after all the role-players and most of the faculty have departed, the AFWI "White Cell" control team, led by Colonel Tim Gunnoe, USAFR, compares Blue student moves against Red and produces an updated picture of the world for the students' next move deliberations. According to Colonel Gunnoe, "One of the reasons for the longevity and success of JCLASS is the experi-

### *media inputs prompt students to react to news as it affects game play*

ence level of the controllers and the almost 1-to-1 ratio of students to controllers and subject matter experts."

When they return in the morning, the students, in addition to receiving current 2017 intelligence briefings, gather relevant information by watching the Global News Network broadcast, designed to replicate the network evening news, and read the "Early Worm" news summary, both produced during the night by Lieutenant Colonel Ruth Latham, USAFR, and her media cell. These media inputs prompt students to react to news as it affects game play. Other aspects of student media training are media coaching and "media opportunities," which come in the form of videotaped mock press conferences and "live fire" encounters with news media. This training and exposure to the media within an exercise context make the conditions very realistic. Approximately 20 Reserve and National Guard public affairs specialists and broadcasters from all over the United States travel to Maxwell Air Force Base to role-play the media and develop these news products.

### **Realism**

Paul Needham, ICAF Supply Chain Management Concentration director, has been a longtime advocate of realism in JCLASS logistics. For instance, as stated above, JCLASS recently adopted the CFAST model into game play as its primary force tracking, deployment planning, and sustainment logistics tool. This is significant because CFAST is currently used by over half of the U.S. unified combatant commands and is on track to be adopted by all.

Also keeping tabs on JCLASS realism during the execution phase are the subject

matter experts that each school employs at the game. Specialists from U.S. Strategic Command, the State Department, Coast Guard, and JSOU, as well as the Defense Threat Reduction Agency, help to round out the in-house AFWI experts, who are led by Commander Steve Crawford, USN (Ret.), of Northrop Grumman, now in his 14<sup>th</sup> year of JCLASS. Retired from Active duty in 1999, Commander Crawford serves as the JCLASS operations officer, coordinating many aspects of JCLASS, such as scheduling the controllers, adjudication team, and media cell.

### **National Security Education**

Another common comment from JCLASS students is that every SLC student should participate in a JCLASS exercise; the realism and intense experience it provides are unparalleled. Unfortunately, the support staff-to-student ratio would make this nearly impossible. Nonetheless, the benefits of JCLASS reach far beyond the pupils involved in any particular exercise. Students certainly carry the insights they learn to future assignments. In addition, JCLASS serves as a center of excellence for the faculty when they take their lessons back to their schools in the form of expertise, contacts, and curriculum ideas.

JCLASS has evolved into a truly national security exercise involving all the instruments of national power, and it provides professional development for faculty and gamers alike. Today, the course increasingly focuses on interagency processes to promote better understanding and integration of military operations with the rest of the Federal Government. These skills are increasingly important to the accomplishment of national objectives. JCLASS annually gives over 100 JPME students and faculty better understanding of the challenges of the interagency process and translating those objectives into operational success.

Over the last 25 years, what began as a single theater, operational level, computer simulated wargame has matured into the premier joint professional military education course and exercise. Look for the Joint Land, Aerospace, and Sea Simulation to continue to evolve over the coming years to keep up with changing global challenges, transform military forces, and refine intra-governmental processes. **JFQ**

# Executive Summary

By HARVEY RISHIKOF

**J**oint Force Quarterly should be commended for recognizing the vital relationship between law and national security.<sup>1</sup> For too long, the law has not been understood as a critical instrument of foreign policy. Under the traditional paradigm of DIME (diplomacy, intelligence, military, and economics) as the instruments of power, *L* or law has had no place. As an acronym, LEDIM or DIMEL or LIMED just did not have the same catchy ring. Theorists have posited a new formulation, MIDLIFE (military, information, diplomacy, law enforcement, intelligence, finance, and economics). It is argued that with the skillful orchestration of these MIDLIFE instruments, or soft and hard power, we will ultimately achieve *smart* power.

The law, indeed, is a complicated intellectual mistress. Like economics, law is both a context for the application of power and at the same time an instrument of power. Rule of law, though, has an ideological force unto itself and is both a domestic and international *legitimizing* of action. Moreover, law enforcement operations have nudged their way into the foreign policy arena, and this, too, has created analytical problems for those who believe in military operations other than war as an exclusively military issue.

The traditional view of the instruments of national power is to separate them into various boxes and study their essential characteristics to illustrate how unique each is. But such an analytical approach does a disservice to the relationship of one instrument to another and how each instrument can affect the operational efficacy of another if one is abused or misused. Air Force theorists, in particular, have been sensitive to this problem, given the nature of airpower. Major General Charles Dunlap,

## Juridical Warfare The Neglected Legal Instrument

deputy judge advocate general, has focused on the modern emergence of “lawfare” within warfare:

*It is clear that lawfare has become a key aspect of modern war. The abuses at Abu Ghraib and elsewhere produced effects more damaging than any imposed by our enemies by force of arms. What makes it especially maddening is that these are self-inflicted wounds, wholly preventable incidents where adherence to the rule of law would have avoided the disastrous consequences that still plague America's war-fighting effort.<sup>2</sup>*

Lawfare for Dunlap occurs when the enemy exploits real, perceived, or even orchestrated incidents of law of war violations as an unconventional means of confronting American military power. The goal of lawfare for the enemy is to make it appear that the United States is fighting in an illegal or immoral way. The damage inflicted by the legal debate on the public support required in a democracy to wage war can contribute to the defeat of American goals. As an example, Dunlap notes that an Air Force policy of “zero tolerance” for noncombatant casualties, although not required by international law, may have the unintended consequence of undermining the ability to use airpower and encourage the enemy to collocate with noncombatants to exploit the new high moral ground being asserted by U.S. policy.

Since World War II, the ethical and legal dimensions of strategic bombing have filled volumes of commentary.<sup>3</sup> In the words of Colonel Peter Faber, USAF, a National War College core course director, although “the moral/legal ambiguities of World War II are long gone, military options are under assault through moral/legal means, and the only way we can arrest this development is by educating ‘combatants’ for ethical and legal war.”<sup>4</sup>



For Dunlap, “international law is the friend of civilized societies and the military forces they field. However, if we impose restraints as a matter of policy in a misguided attempt to ‘improve’ on it, we play into the hands of those who would use it to wage lawfare against us.”<sup>5</sup> Lawfare can be a powerful ideological instrument indeed for a superpower, or it can be a powerful inhibitor.

For the traditionalists in the law of armed conflict, the lawfare debate raises the categories of *jus ad bellum*, *jus in bello*, and *jus post bellum*. But the Just War paradigm carries historic baggage that often does not assist in debates over nuclear war, terrorism, and when to intervene in failing states. Domestic law and international law in the “age of modern terrorism” have collided as debates rage over how best to categorize and use force against “terrorists.” These policies have proven to be controversial issues in our polity, and the Just

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War categories have demonstrated analytical limitations in the face of the new realities.

The executive branch has clashed with both Congress and the Supreme Court in its view of executive power when creating new policy on a war footing. Is a terrorist action a criminal violation or a political act? Should terrorism be prosecuted under the laws of armed conflict or the criminal justice system? Is terrorism primarily a domestic or foreign issue? When projecting force against the threat of terrorism, should we use law enforcement shooting criteria or military rules of engagement? Which international conventions govern the confinement and interrogation of terrorists and how? Does it make a difference if the victims of terrorism are combatants or noncombatants? Under what laws should “private contractors” be governed—military, criminal, or local? If gathering intelligence is the center of gravity to prevent terrorist acts, should this process be governed by law enforcement restrictions or foreign intelligence criteria? How should the executive branch conduct its terrorist policies with respect to Congress and the Federal courts?

Based on the range of these questions and the constitutional issues involved, the characterization *juridical warfare* appears to be a more appropriate term than *lawfare* when thinking about the law more broadly, both as an ideological concept and as a tool, within the context of national security. The essays that follow in this Forum on habeas corpus, rendition, targeted killing, and the International Criminal Court eloquently contribute to the exploration of some of the critical issues involved in juridical warfare.

James Terry’s essay, “Habeas Corpus and the Detention of Enemy Combatants in the War on Terror,” explores the evolution of detainee confinement over the last 5 years and the role that habeas corpus should play during an armed conflict. The essay squarely addresses the proper role of the courts in shaping detainee issues through its interpretation of the writ of habeas corpus. Col Terry contends that in the war on terror, there must be some limitations on “judicial adventurism.” He reasons that the “expansion” of the writ of habeas corpus for alien/enemy combatants will encourage forum shopping and that we need to remove domestic courts from military affairs. Relying on the precedent of *Johnson v. Eisentrager*, Terry traces the limits on habeas for aliens held in foreign

territories through the four times the writ has been suspended under Article I of the U.S. Constitution due to “rebellion or invasion” in our history: the Civil War post-facto under President Abraham Lincoln (for General Winfield Scott to secure safe passage between Washington and Philadelphia); the Ku Klux Klan Act (post-Civil War) under President Ulysses Grant; the Philippines insurrection (post-Spanish-American War) under President William McKinley; and, most recently, post-Pearl Harbor in the Hawaiian Islands under President Franklin Roosevelt.

Terry then summarizes the key detainee cases *Rasul v. Bush*, *Padilla v. Rumsfeld*, and *Hamdi v. Rumsfeld* in which the administration’s interpretation of executive power and no Federal jurisdiction was rejected by the Supreme Court, which laid out the basic requirement of “due process.” Congress’s responses to these cases, the Detainee Treatment Act of 2005 and the Military Commission Act (MCA) of 2006, are discussed in the Court’s further rejection of “jurisdiction stripping” in *Hamdan v. Rumsfeld*.

The analysis of the issue ends with the *Boumediene v. Bush* case, which, along with *Odah v. Bush*, has just been granted certiorari before the Supreme Court to determine if the MCA afforded the plaintiffs appropriate “due process” rights and whether historically the writ applied to those held outside of the sovereign’s territory. Congress is also threatening to revisit the issue of habeas corpus and amend the MCA to enforce the right for the detainees. Some international juridical warfare aspects of the case are joined specifically in the *Odah* case, where the International Law Scholars (ILS) have filed an *amici curiae* brief on behalf of one defendant, Omar Khadr, a minor under the age of 18. It is the ILS position that the MCA, by denying habeas, is violating customary international law for minors. Moreover, the ILS argues that customary international law prohibits the prosecution of children in general, and in the exceptional cases where it is lawful, children must be treated with special protections for rehabilitation and reintegration, all which are being denied under the current MCA procedures. The issue of minors and prosecution in the war on terror brings into stark relief the problem of using new frameworks that generate international juridical warfare controversy.

Colonel Peter Cullen, USA, in his essay “The Role of Targeted Killing in the

Campaign against Terror,” analyzes what some have contended is an indispensable tool for the war on terror: *targeted killing*, or the “intentional slaying of a specific individual or group of individuals undertaken with explicit government approval.” For Cullen, a circumscribed policy for targeted killings can be legal, moral, and effective, and he proposes specific procedures to that effect. For critics, these killings are extrajudicial and prohibited by international law. Cullen states several reasons by which both international and domestic law justify targeted killing:

- The United States has an inherent right of self-defense under Article 2(4) of the United Nations (UN) Charter and *jus ad bellum*.

- Under Additional Protocol II and Article 13(2) of the UN Charter, since the United States is in an armed conflict with al Qaeda and associated movements (AQAM), members and operatives are combatants and may be lawfully targeted at will under *jus in bello*.

- Proper designation of AQAM targets will turn on intelligence, proportionality, and a cost/benefit analysis.

- Domestic law such as Executive Order 12333 does not apply in war to the military, and the authorization of the use of military force by the Congress granted legal authority for the practice.

- The National Security Act of 1947 contemplates findings for killing operations.

As for moral considerations, in Cullen’s view this tool complies with Just War theory as long as all efforts are taken to minimize noncombatant casualties, ensure the accuracy of the intelligence, and use the tool sparingly. As for its efficacy, for Cullen targeted killing has contributed to our safety, despite the critics who argue that it is counterproductive since it produces martyrs, undermines the battle of ideas and rule of law arguments, reduces the possibility for more intelligence, and is prone to misidentification. Cullen’s guidelines establish whom to target, what circumstances authorize an operation, who should approve an operation, who should conduct the operation, and how an operation should be conducted.

Cullen concludes that the success of targeted killing will turn on two factors: obtaining actionable intelligence and persuading domestic and international communities that this tool is legal, moral, and effective. In other

words, the United States must win the juridical warfare debate and not be perceived as conducting extrajudicial killings and assassinations. This will require transparency, minimizing collateral damage, checks and balances to ensure proper targets, and accurate intelligence. When targeted killing is used as a tool, however, mistakes will be international juridical warfare *causes célèbres*.

The essay, "Rendition: The Beast and the Man," by Colonel Kevin Cieply, USA, reviews another controversial technique of the war on terror: the capturing of suspected terrorists and their transportation to undisclosed locations. Cieply defines *rendition* as "the practice of capture and transfer of an individual from one nation to another for the purpose of subjecting the individual to interrogation without following the normal process of extradition or removal." The purest defense of the practice is the Machiavellian rationale that the "end justifies the means." Rendition is the form of Machiavellian combat that does not follow laws but rather force. This philosophy of results is contrasted with the more idealist position of George Kennan, the preeminent international relations theoretician of the Cold War, who opposed techniques of rendition on principle since they conflicted with American traditional standards and compromised our diplomacy in other areas.

But what is one to do with Khalid Sheikh Mohammed, Abu Zubaydah, or Ramzi Yousef when traditional law enforcement methodologies are unsuccessful? It must be underscored that Khalid Sheikh Mohammed did not receive any form of due process for 4 years from capture to his first administrative hearing. Yet what of the cases of Kahled El-Masri and Abu Omar, men captured and then released and not charged? How do such practices square with world moral leadership and rule of law? Cieply argues for a middle ground, a rendition policy with transparency and some type of due process. Time will tell if such middle ground is possible and acceptable to world opinion.

The last set of essays by Commander Brian Hoyt, USN, "Rethinking the U.S. Policy on the International Criminal Court" and James Terry, "The International Criminal Court: A Concept Whose Time Has Not Come," debate the U.S. decision not to ratify the Treaty of Rome's International Criminal Court (ICC). As pointed out by the authors, 104 countries, including two of our staunchest allies, Canada and Great Britain, have rati-

fied the ICC. Hoyt makes a strong case for the court, refuting the traditional objections to it concerning its overbreadth on jurisdiction, infringement on U.S. sovereignty, the weak procedural protections for defendants compared to the U.S. criminal code, and the ICC's susceptibility to political manipulation by overzealous prosecutors. Hoyt is critical of the Bilateral Immunity Agreements (Article 98 Agreements) that the United States has entered into with individual countries, which some have seen as highly pressured exertions of American power on our allies and friends to undercut the strength of the treaty.

Terry takes the exact opposite view of the ICC, highlighting the risks to U.S. Servicemembers serving in UN-monitored military conflicts. Under the ICC, Servicemembers forego American guaranteed constitutional rights involving evidence production, hearsay, and double jeopardy protections. Terry is also concerned about the corrosive effect the court could have on other UN institutions, particularly the Security Council. His essay highlights Congress's role in passing the American Servicemembers' Protection Act of 2002 requiring immunity from ICC prosecution before the United States can participate in UN peacekeeping and peace enforcement operations.

In essence, the ICC debate acts as a foil to the general juridical warfare dilemma confronting the United States as a world power. Although the Nation is a historic leader in international law, there are some who believe that Washington views the creation or emergence of these new international institutions, such as the ICC, Kyoto environmental agreements, new Law of the Sea convention, and Ottawa anti-landmine convention, as attacks on national sovereignty and restrictions on U.S. ability to maneuver in the international arena. Often these conventions are viewed as mechanisms to skirt the authority of the Security Council and the "Big Power" veto that helped legitimize the original United Nations. Ironically, the United States, the preeminent rule of law society, is made to look as the "anti" rule of law rogue, pursuing its self-interest at the expense of world norms based on its rejections of these conventions. The mistrust of the United States is evident in official pronouncements that highlight the fear of international political manipulation or persecution and of projected attempts to publicly discredit U.S. policy.

Often the American position exemplifies the fact that the 1950s international legal framework was based on a Cold War balance of power and set of norms that are no longer efficacious in the post-Cold War world. Failing states, emerging new powers, terrorism, and globalism are calling the status quo into question. As the world struggles for new norms and frameworks for justice, there is much suspicion and lack of international trust. In a world where the old is increasingly obsolete, the new reflects shifting and emerging balances of power, and the current is amenable to plays of unfettered power projections of the strong, it is no wonder that juridical warfare is on the rise and resented as a tool of the weak.

These essays raise important questions about juridical warfare. In particular, how does law or the rule of law interact with the war on terror? How does the United States participate in the ideological debate over international justice and world opinion? As a result, all the essays share the fundamental issues of what the appropriate legal authority to prosecute war crimes is, how far habeas corpus should be extended when prosecuting terrorism, and when targeted killings and renditions are appropriate. For these authors, these issues are primarily military-political executive functions. But under the juridical warfare paradigm, what role should law and the courts—both international and domestic—play? Perhaps this is a question for another issue of *JFQ*. May the compelling and timely discussions raised on lawfare and juridical warfare continue in these pages in the future. **JFQ**

## NOTES

<sup>1</sup> The author would like to give Trudi Rishikof special thanks for her assistance with this article.

<sup>2</sup> Major General Charles J. Dunlap, Jr., USAF, "Lawfare Amid Warfare," op-ed, *The Washington Times*, August 3, 2007.

<sup>3</sup> See Peter Faber, "The Ethical-Legal Dimensions of Strategic Bombing During WWII: An Admonition to Current Ethicists," a paper prepared for the Joint Services Conference on Professional Ethics XVII, Washington, DC, January 25–26, 1996, available at <[www.usafa.af.mil/jscope/JSCOPE96/faber96.html](http://www.usafa.af.mil/jscope/JSCOPE96/faber96.html)>.

<sup>4</sup> Ibid.

<sup>5</sup> Dunlap.



U.S. Soldier stands guard at detention center on Naval Base Guantanamo Bay, November 2006

# HABEAS CORPUS

## and the Detention of Enemy Combatants in the War on Terror

By JAMES P. TERRY

**S**ince the al Qaeda attacks on the World Trade Center and Pentagon on September 11, 2001, the United States has been engaged in an armed conflict that rivals more traditional conflicts in its brutality and carnage. Like other enemies we have faced in the past—the North Vietnamese, North Koreans, Japanese, and Germans—al Qaeda and its affiliates possess both the ability and the intention to inflict catastrophic harm, if not on this nation, then on its citizens. But unlike our more conventional enemies, al Qaeda members show no respect for either the humanitarian law applicable to the victims of conflict reflected in the 1929 and 1949 Geneva Conventions or the laws applicable to the conduct of hostilities found in The Hague Conventions of 1899 and 1907.

Al Qaeda forces are, in fact, specifically organized to violate the precepts of the law of armed conflict: they do not wear uniforms; they do not carry arms openly; they do not

have an organized command structure; and, most importantly, they direct their attacks against noncombatants (that is, innocent civilians). Considering the nature of this adversary, we cannot expect that this conflict will conclude around a negotiating table.

Recognizing this threat and moving to preclude further attacks on our homeland, U.S. forces have captured enemy combatants and terrorists on battlefields in Africa and Europe, as well as in Afghanistan, Iraq, and Southwest Asia. Patterning its actions on past conflicts, the United States has determined it necessary to detain these combatants until the conclusion of hostilities, if only to preclude their return to the battlefield. Soon after the September 11 attacks, the Bush administration determined the need to establish a detention facility outside American territory at the U.S. Naval Base at Guantanamo Bay. This would permit effective detention without the legal requirement to entertain continual court suits by the detainees.

Prior to this conflict, alien detainees held on foreign soil were denied access to U.S. Federal courts to contest detention (habeas corpus). The spate of lawsuits and legislation arising from the detention of alien combatants at Guantanamo since 2002 has led, over the last 5 years, to refinement in the law regarding detainees and further explication of the law of habeas corpus during armed conflict. This paper explains that process.

### Historical Antecedents

In U.S. history, aliens held by our military forces in foreign territory have not been entitled to the civilian remedy of habeas corpus in the Federal Courts because these courts had no jurisdiction over the land on which they were being held. As the Supreme Court explained over 50 years ago in *Johnson v. Eisentrager*,<sup>1</sup> “[w]e are cited to no instance where a court, in this or any other country where the writ is known, has issued it on behalf of an enemy alien who, at no relevant time and in no stage of his captivity, has been within the territorial jurisdiction. Nothing in the text of the Constitution extends such a right, nor does anything

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in our statutes.”<sup>2</sup> The implementing legislation, 28 U.S.C. 2241, similarly limited access to the courts to those within its jurisdiction.<sup>3</sup>

An underlying concern in granting access to U.S. courts to alien combatants detained abroad during armed conflict, quite apart from the jurisdictional element, relates to the nature of warfare. The witnesses who would be needed to provide personal testimony and rebut the aliens’ contentions in a judicial forum, as opposed to an administrative one, are engaged in military operations or subject to commitment to combat. Requiring them to leave their units and appear in habeas proceedings would be both disruptive and divisive. The original documents necessary to present the Government’s position would likely not be available until all hostilities are concluded. Identification and transport of foreign witnesses demanded by the detainees for in-person testimony would often prove infeasible, if not logistically impossible. Moreover, there is no authority over such foreign witnesses and their appearance could not be assured.

In fact, the historical common law underpinnings of the legal right to habeas corpus, and its limitations, reflect many of the tenets of the *Eisentrager* case. The history of habeas corpus as the “symbol and guardian of individual liberty”<sup>4</sup> for English and now American citizens is well established. What we know now as the “Great Writ” originated as the “prerogative writ of the Crown,”<sup>5</sup> its original purpose being to bring people *within the jurisdiction* into court, rather than out of imprisonment.<sup>6</sup> By the early 13<sup>th</sup> century, the use of the writ to bring people to court was a commonly invoked aspect of English law.<sup>7</sup>

The reformation of the writ to one in which freedom from incarceration was the focus can be traced to the 14<sup>th</sup> century when, as an aspect of the Norman conquest, the French developed a centralized judicial framework over existing local courts. During this period, prisoners began to initiate habeas proceedings to challenge the legality of their detention. The first such use was by members of the privileged class who raised habeas claims in the superior central courts to challenge their convictions in the local inferior courts. The central courts would often grant such writs to assert the primacy of their jurisdiction. Thus, the rationale behind the grant of these writs more often focused on the jurisdiction of the particular court than concerns over the liberty of the petitioners.

The availability and meaning of habeas corpus expanded in the 15<sup>th</sup> century. The writ

became a favorite tool of both the judiciary and Parliament in contesting the Crown’s assertion of unfettered power.<sup>8</sup> By the late 1600s, habeas corpus was “the most usual remedy by which a man is restored again to his liberty, if he has been against the law deprived of it.”<sup>9</sup> Despite its status, it was not uncommon for the Crown to suspend the right during periods of insurrection, during conspiracies against the King (1688 and 1696), during the American Revolution, and during other periods in the 18<sup>th</sup> century.<sup>10</sup>

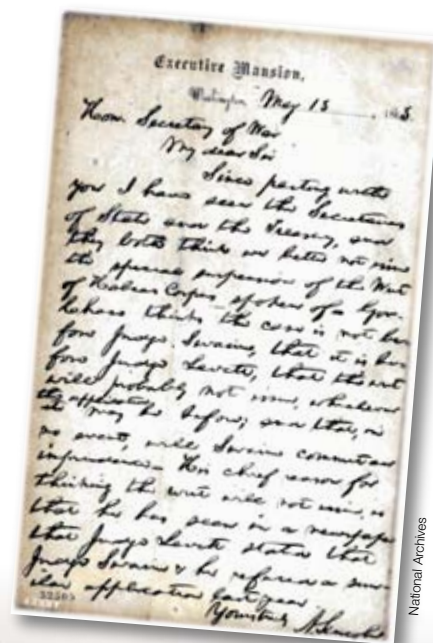
In the early American colonies, New Hampshire, Georgia, and Massachusetts adopted provisions in their constitutions prohibiting suspension of the right of habeas corpus for their citizens under nearly all circumstances.<sup>11</sup> During debate on the U.S. Constitution, some delegates in Philadelphia sought a guarantee of habeas corpus in the Federal Constitution.<sup>12</sup> The compromise that emerged forbade the suspension of habeas corpus unless necessary in the face of “rebellion or invasion.”<sup>13</sup> Despite the compromise, habeas corpus remains the only writ at common law referenced in the Constitution. In section 14 of the Judiciary Act of 1789,<sup>14</sup> moreover, the Congress

specifically gave authority to the newly created Federal courts to issue the writ.

Suspension of the writ had been authorized by Congress only four times in the Nation’s history<sup>15</sup> prior to Congress’ and the Court’s consideration of the Guantanamo detainees. The first occurred during the Civil War when Congress, after the fact, gave approval to President Abraham Lincoln’s earlier permission to his commanding General of the Army, Winfield Scott, to suspend the right between Washington and Philadelphia. This was in response to rioting by Southern sympathizers as Union troops moved down the coast.<sup>16</sup> The second occurred after the Civil War when Congress, in the Ku Klux Klan Act, gave President Ulysses Grant authority to suspend the writ in four South Carolina counties where rebellion was raging.<sup>17</sup> The third

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relates to the nature of  
warfare*

**Right: Abraham Lincoln’s letter to Edwin M. Stanton,  
May 13, 1863, suspending writ of habeas corpus  
Below: Detention compound for Cuban nationals  
captured during Operation Urgent Fury, October 1983**



DOD (Gary Miller)

and fourth authorizations occurred in 1902 and 1941, respectively. During the insurrection in the Philippines following the Spanish-American War, President William McKinley sought and obtained congressional authorization to suspend the writ.<sup>18</sup> Similarly, in 1941, immediately after the Japanese attacked Pearl Harbor, President Franklin Roosevelt asked Congress to suspend habeas corpus throughout the islands, and that body authorized the territorial Governor of Hawaii to temporarily do so. Unlike the current circumstance involving the Guantanamo detainees, each of the prior suspensions of the right involved “rebellion or invasion,” as required by Article I of the Constitution. *But rebellion or invasion has never been required to preclude habeas jurisdiction if the detainee was held outside U.S. territory.*

In each of the four instances cited, Congress was authorizing suspension of habeas corpus over territory in which the United States was sovereign. Conversely, in the 1950 *Eisen-trager* decision, where the Supreme Court held that the right of judicial access in habeas cases did not extend beyond the territorial jurisdiction of the United States, the part of Germany where Eisentrager was held and the confinement facility in which he was incarcerated were under the complete control and authority of American forces, but it was not U.S. sovereign territory.

The foreign detention in *Eisen-trager* had been informed by the Government’s experience in two principal cases arising from World War II. In *Ex parte Quirin*,<sup>19</sup> a 1942 Supreme Court decision, German saboteurs were captured in the United States and tried before a military commission similar to that established for the Guantanamo detainees. The Presidential Proclamation establishing their military tribunal, by its terms, had precluded access to the Federal courts.<sup>20</sup> Held in a Federal confinement facility in Washington, DC, the saboteurs nevertheless sought relief through a petition for a writ of habeas corpus in the U.S. district court. The Supreme Court, in rejecting arguments by the Solicitor General that judicial access through a writ of habeas corpus was precluded by the Presidential Proclamation, stated that “neither the Proclamation nor the fact they are enemy aliens forecloses consideration by the courts of petitioners’ contention that the Constitution and laws of the United States constitutionally enacted forbid their trial by military commission.”<sup>21</sup>

In 1948, in *Ahrens v. Clark*,<sup>22</sup> the Supreme Court addressed the habeas petitions of 120 German nationals held on Ellis Island in New York awaiting deportation to Germany. Filing

their petitions in the U.S. District Court for the District of Columbia, the German petitioners named the Attorney General, located in the District, respondent in their suit under the theory that they were under his control. The Supreme Court dismissed. The court held that a district court may only grant a writ of habeas corpus to a prisoner confined within its territorial jurisdiction. The court addressed the “immediate custodian rule,” discussed more fully below, only in passing. The ruling stated: “Since there is a defect in the jurisdiction of the District Court that remains uncured, we do not reach the question whether the Attorney General is the proper respondent.”<sup>23</sup> The Court’s reasoning in *Ahrens* concerning the locus of incarceration would be heavily relied upon by Justice William Rehnquist in his decision in *Padilla*, discussed below.<sup>24</sup>

In the current war on terror, the detainees held at Guantanamo are under the complete control of U.S. forces but on territory over which the Republic of Cuba is sovereign.<sup>25</sup> Until 2004, the Bush administration was successful, as reflected in *Al Odah v. United States*,<sup>26</sup> in precluding access to U.S. Federal courts on the part of detainees based on our lack of sovereignty over the Guantanamo Naval facility. This changed with the Supreme Court’s decisions in the Enemy Combatant Cases of 2004.<sup>27</sup>

*held in a Federal confinement facility in Washington, DC, the saboteurs nevertheless sought relief through a petition for a writ of habeas corpus in the U.S. district court*

### Enemy Combatant Cases

The Enemy Combatant Cases decided by the Supreme Court, *Rasul v. Bush*, *Padilla v. Rumsfeld*, and *Hamdi v. Rumsfeld*,<sup>28</sup> were collectively interpreted by many as strong judicial direction for the administration on its detainee policies. These cases addressed both foreign detention of enemy combatants and their detention within the United States. In ruling against the Government in *Rasul v. Bush*, the Supreme Court, per Justice John Paul Stevens, reversed the DC Circuit in *Al Odah v. United States*<sup>29</sup> and held that the Federal habeas statute, 22 U.S.C. 2241, extended to alien detainees<sup>30</sup> at Guantanamo. The Court decided “the narrow but important question whether United States courts lack jurisdiction to consider challenges

to the legality of detention of foreign nationals captured abroad in connection with hostilities and incarcerated at the Guantanamo Bay Naval Base, Cuba.”<sup>31</sup> Although the Guantanamo detainees themselves were held to be beyond the district court’s jurisdiction, the Supreme Court determined that the district court’s jurisdiction over the detainees’ military custodians was sufficient to provide it subject matter jurisdiction over the aliens’ habeas corpus claims under section 2241.<sup>32</sup> The Court also found subject matter jurisdiction over the detainees’ non-habeas claims (5<sup>th</sup> Amendment) because it found that nothing in the Federal question statute<sup>33</sup> or the Alien Tort Act<sup>34</sup> excluded aliens outside the United States from bringing these claims in Federal court.<sup>35</sup>

In *Padilla v. Rumsfeld*, decided the same day, the Court, per Justice Rehnquist, determined that there was no jurisdiction in a New York District Court to hear the habeas petition of Jose Padilla, a U.S. citizen confined in a Charleston, South Carolina, naval brig



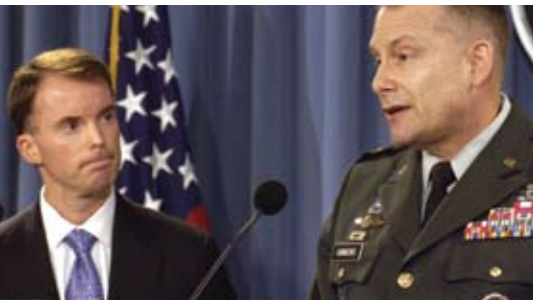
Brig Gen Thomas Hemingway, USAF, and DOD Principal Deputy General Counsel Dan Dell'Orto brief reporters about conduct of Military Commissions

after being transferred from New York as an alleged enemy combatant. The Supreme Court found that the only person who could be named as respondent in the habeas petition was the custodian of the Charleston brig, Commander Melanie Marr, as she was the only one of the named respondents who could produce the body. She, however, was not within the jurisdiction of the Southern District of New York. The Court, in dismissing the habeas petition, found that Secretary of Defense Donald Rumsfeld likewise could not be considered Padilla’s custodian or named as respondent of the petition, as he did not qualify as such under the immediate custodian rule, nor was his Pentagon office within the jurisdiction of the District Court in New York.

In *Hamdi v. Rumsfeld*, the third of the Enemy Combatant Cases, the Supreme Court provided clear guidance on the protections to be

afforded enemy combatants in custody. From the standpoint of jurisdiction, there were no significant issues raised in Hamdi's habeas petition, and the Supreme Court considered the case on its merits. The petitioner, Hamdi, a U.S. citizen of Saudi origin, was incarcerated in the brig at the U.S. Naval Base in Norfolk, Virginia, as an alleged enemy combatant serving in Afghanistan. The petition was filed in the Eastern District of Virginia, the locus of Secretary Rumsfeld (the Pentagon is in Arlington), and the commanding officer of the Norfolk brig, satisfying the immediate custodian rule. The case is significant in holding that enemy combatants detained by the U.S. military in furtherance of

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DOD (Robert D. Ward)

**ASD for Detainee Affairs Cully Stimson and Deputy Chief of Staff for Intelligence, LTG John Kimmons, USA, brief reporters on handling of detainees**

the war on terror are entitled to due process protections, specifically "notice of the factual basis for the classification, and a fair opportunity to rebut the Government's factual assertions."<sup>36</sup>

### Congressional Response

The Congress, at administration urging, responded quickly to the decision in *Rasul v. Bush* with the Detainee Treatment Act of 2005.<sup>37</sup> This legislation was designed to restore the status quo reflected in *Eisentrager*, at least with respect to Guantanamo detainees. In this act, Congress added a subsection (e) to 28 U.S.C. 2241, the habeas statute. This new provision stated that:

*[e]xcept as provided in section 1005 of the Detainee Treatment Act, no court, justice, or judge may exercise jurisdiction over*

- (1) *an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba; or*
- (2) *any other action against the United States or its agents relating to any aspect of the detention by the Department of Defense of any alien at Guantanamo Bay, Cuba, who*
  - (A) *is currently in military custody; or*
  - (B) *has been determined by the United States Court of Appeals for the District of Columbia Circuit . . . to have been properly detained as an enemy combatant.*<sup>38</sup>

The act further provided in section 1005 for exclusive judicial review of Combatant Status Review Tribunal determinations and Military Commission decisions in the DC Circuit.<sup>39</sup> On its face, this legislation appeared to have undone the harm created by *Rasul* and restored the delicate balance created years earlier by *Eisentrager*.

In June 2006, however, the Supreme Court, in *Hamdan v. Rumsfeld*,<sup>40</sup> interpreted the Detainee Treatment Act restrictively, finding that it only applied prospectively from the date of enactment and did not remove jurisdiction from the Federal courts in habeas proceedings pending on that date. The Court pointed to section 1005(h) of the act, which states that subsections (e)(2) and (e)(3) of section 1005 "shall apply with respect to any claim . . . that is pending on or after the date of the enactment of this Act," and then compared this with subsection (e)(1). The Court found that no similar provision stated whether subsection (e)(1), the dispositive subsection, applied to pending habeas cases. Finding that Congress "chose not to so provide . . . after having been provided with the option," the Court concluded that "[t]he omission [wa]s an integral part of the statutory scheme."<sup>41</sup>

Frustrated once again, Congress quickly passed the Military Commissions Act of 2006,<sup>42</sup> which, in section 7, again amended section 2241(e) (habeas statute) to clearly provide that subsection (e)(1) "shall apply to all cases, without exception, pending on or after the date of enactment."<sup>43</sup> Both the proponents and opponents of section 7 understood the provision to eliminate habeas jurisdiction over pending detainee cases.

Nevertheless, the detainees in *Hamdan* were undeterred. Despite the fact that anyone who followed the interplay between Congress

and the Supreme Court knew full well that the sole purpose of the 2006 Military Commissions Act was to overrule *Hamdan*, the detainees claimed otherwise. In *Boumediene v. Bush*,<sup>44</sup> the same detainees urged the DC Circuit to find that habeas jurisdiction had not been repealed. Arguing that if Congress had intended to remove jurisdiction in their cases, it should have expressly stated in section 7(b) that habeas cases were included among "all cases, without exception, pending on or after" the Military Commissions Act became law. Otherwise, they argued, the Military Commissions Act did not represent an "unambiguous statutory directive" to repeal habeas corpus jurisdiction.<sup>45</sup> The DC Circuit, however, made clear in its February 20, 2007, decision in *Boumediene* that the Military Commissions Act applied to the detainees' habeas petitions.

On June 20, 2007, the Court of Appeals for the DC Circuit further denied the appellant Boumediene's motion to hold the collected cases in abeyance and to stay issuance of the mandate.<sup>46</sup> This followed the Supreme Court's April 2, 2007, denial of the appellants' petition for a writ of certiorari.<sup>47</sup> On June 29, 2007, however, the Supreme Court vacated its prior denial and granted the detainees' petition for a writ of certiorari. As of this writing, the outcome of the detainees' jurisdictional arguments awaits the Fall 2007/Spring 2008 terms of the Court.

### Suspension Clause Relationship to Detainees

Separate from, but related to, the jurisdictional arguments of the detainees are their claims under the Suspension Clause<sup>48</sup> of the Constitution. The Supreme Court held in 2001 that the Suspension Clause protects the writ of habeas corpus "as it existed in 1789," when the first Judiciary Act created the Federal court system and granted jurisdiction to those courts to issue writs of habeas corpus. Before the DC Circuit in the *Boumediene* appeal, however, appellants argued that in 1789, the privilege of the writ extended to aliens outside the sovereign's territory.

Unfortunately, in none of the cases cited by appellants were the aliens outside the territory of the sovereign. More significantly, the historical antecedents in England upon which U.S. practice is based show that the writ was simply not available in any land not the sovereign territory of the Crown. As Lord Mansfield explained in *Rex v. Cowle*,<sup>49</sup> cited with authority in *Boumediene*, "To foreign dominions . . . this Court has no power to send any writ of

any kind. We cannot send a habeas corpus to Scotland, or to the electorate; but to Ireland, the Isle of Man, the plantations [American colonies] . . . we may.” Each territory that Lord Mansfield cited as a jurisdiction to which the writ extended was a sovereign territory of the Crown at the time.

Given the clear history of the writ in England prior to the founding of this country, habeas corpus would not have been available to aliens in the United States in 1789 without presence or property within its territory. This is borne out by the Supreme Court’s 1950 decision in *Johnson v. Eisentrager*, noted earlier, where the Court said, “Nothing in the text of the Constitution extends such a right, nor does anything in our statutes.” Similarly, the majority in *Boumediene* in 2007 observed, “We are aware of no case prior to 1789 going the detainees’ way, and we are convinced that the writ in 1789 would not have been available to aliens held at an overseas military base leased from a foreign government.”

### The Way Forward

The limitations inherent in the Detainee Treatment Act of 2005 and the Military Commissions Act of 2006 are obvious. Their provisions only address detention of enemy combatants at the U.S. Naval Base at Guantanamo. The requirements inherent in the war on terror will likely warrant expansion of habeas corpus limitations through broader congressional mandates and further amendment of 22 U.S.C. 2241 (habeas statute). It is clear, for example, that challenges to the detention of enemy combatants in Iraq held by the U.S. Government will be the next step in the detainee litigation process.

The provisions of the Military Detainees Act and the Military Commissions Act, having solved half the problem (possibly less depending on the resolution of the writ of certiorari in *Boumediene*), nevertheless provide the legislative roadmap to proscribe habeas jurisdiction for enemy combatants held elsewhere in the current conflict. For those enemy combatants held in U.S. custody in Iraq and/or Afghanistan, it is hard to believe that U.S. courts, now that the distinction of foreign confinement is removed, will not have to face the question of whether the insurgency in either or both nations currently constitutes a “rebellion or invasion” vis-à-vis the United States. If it does not, without legislation applicable to the specific incarceration facilities in Baghdad or Kabul, for example, *Rasul* would appear to

dictate that these petitioners would have access to any of the U.S. district courts.

The lack of any restriction on enemy combatants in terms of the forum in which they can challenge their foreign confinement stands in stark contrast to the jurisdictional limits for domestic confinees, including U.S. citizens, who are limited to the district court in the jurisdiction of their confinement. Not only does the Court’s interpretation of 22 U.S.C. 2241 in *Rasul* appear to grant foreign detainees access to any of the 94 Federal district courts, as the key to jurisdiction is now the custodian and not the detainee, but it also invites forum shopping in the most liberal fora.

A more fundamental problem arises from the impact of bringing the cumbersome machinery of our domestic courts into military affairs. The obvious potentially harmful effect of the recent decisions on the Nation’s conduct of war is reflected in the judicial adventurism of *Rasul* and *Hamdi*, where heretofore authorized actions in furtherance of the war effort are now subject to judicial direction. This new approach by the courts, unless halted, threatens the historic division among the three branches and will frustrate our military leaders’ traditional reliance upon clearly stated prior law. **JFQ**

### NOTES

<sup>1</sup> 339 U.S. 763 (1950).

<sup>2</sup> *Ibid.*, 768.

<sup>3</sup> The habeas statute states that “Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions.” See 28 U.S.C. 2241(a).

<sup>4</sup> See *Peyton v. Rowe*, 391 U.S. 54, 59, 88 S.Ct. 1549, 20 L.Ed. 2d. 426 (1968).

<sup>5</sup> The phrase *habeas corpus* refers to the common law writ of habeas corpus, or the “Great Writ.” *Preiser v. Rodriguez*, 411 U.S. 475, 484–485, and n. 2, 93 S.Ct. 1827, 36 L.Ed. 2d. 439 (1973), citing *Ex Parte Bollman*, 8 U.S.C. (4 Cranch) 75, 95, 2 L.Ed. 554 (1807).

<sup>6</sup> See Alan Clarke, “Habeas Corpus: The Historical Debate,” *New York Law School Journal of Human Rights* 14 (1998), 375, 378; William F. Duker, *A Constitutional History of Habeas Corpus* (Westport, CT: Greenwood Press, 1980).

<sup>7</sup> Clarke, 378.

<sup>8</sup> *Ibid.*, n. 8, 380.

<sup>9</sup> *Bushell’s Case*, Vaughan 135, 136, 124 Eng. Rep. 1006, 1007 (1670).

<sup>10</sup> See Rex A. Collins, Jr., “Habeas Corpus for Convicts—Constitutional Right or Legislative Grace,” *California Law Review* 40, no. 3 (Autumn 1952), 335, 339.

<sup>11</sup> Max Rosenn, “The Great Writ—A Reflection of Societal Change,” *Ohio State Law Journal* 44 (1983), 337, 338, n. 14.

<sup>12</sup> Erwin Chemerinsky, “Thinking about Habeas Corpus,” *Case Western Reserve Law Review* 37 (1987), 748, 752.

<sup>13</sup> U.S. Const., art. 1, sec. 9, cl. 2.

<sup>14</sup> Act of September 24, 1789, ch. 20, sec. 14, 1 Stat. 73, 81.

<sup>15</sup> Duker, n. 7, 149.

<sup>16</sup> Act of March 3, 1863, 12 Stat. 755.

<sup>17</sup> Duker, n. 7, 178; n. 190.

<sup>18</sup> Act of July 1, 1902, ch. 1369, 32 Stat. 691.

<sup>19</sup> 317 U.S. 1 (1942).

<sup>20</sup> *Quirin*, 317 U.S. at 20–24.

<sup>21</sup> *Ibid.* at 25. The German saboteurs were convicted by the Military Commission and executed.

<sup>22</sup> 335 U.S. 188 (1948).

<sup>23</sup> *Ibid.*, 193.

<sup>24</sup> See *Padilla v. Rumsfeld*, 542 U.S. 426 (2004).

<sup>25</sup> Lease of Lands for Coaling and Naval Stations, February 23, 1903, U.S.-Cuba, Art. III, T.S. No. 418. The leasehold has no termination date.

<sup>26</sup> 355 U.S. App. D.C. 189, 321 F.3d 1134 (D.C. Cir. 2003).

<sup>27</sup> *Rasul v. Bush*, 542 U.S. 466 (2004); *Padilla v. Rumsfeld*, 542 U.S. 426 (2004); *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004).

<sup>28</sup> *Ibid.*

<sup>29</sup> 355 U.S. App. D.C. 189 (D.C. Cir. 2003).

<sup>30</sup> These are unlawful alien combatants but not technically enemy aliens since they do not represent any country with which the United States is at war.

<sup>31</sup> *Rasul*, 542 U.S. at 470.

<sup>32</sup> *Ibid.*, 483–484.

<sup>33</sup> 28 U.S.C. 1331.

<sup>34</sup> *Ibid.*

<sup>35</sup> *Rasul*, 542 U.S. at 484–485.

<sup>36</sup> *Hamdi*, 542 U.S. at 533.

<sup>37</sup> Public Law No. 109–148, 119 Stat. 2680 (2005). Signed into law December 30, 2005.

<sup>38</sup> Detainee Treatment Act, sec. 1005 (e)(1).

<sup>39</sup> *Ibid.*, sec. 1005(e)(2), (e)(3).

<sup>40</sup> 126 S.Ct. 2749, 165 L.Ed. 2d. 723 (2006).

<sup>41</sup> *Ibid.*, 2769.

<sup>42</sup> Public Law No. 109–366, 120 Stat. 2600 (2006).

<sup>43</sup> Military Commissions Act, sec. 7, note 51.

<sup>44</sup> 476 F. 3d 981 (2007).

<sup>45</sup> *Ibid.*

<sup>46</sup> *Boumediene v. Bush*, 2007 U.S. App. LEXUS 14883, June 20, 2007.

<sup>47</sup> *Certiorari* is the writ that an appellate court issues to a lower court in order to review its judgment for legal error and review, where no appeal is available as a matter of right.

<sup>48</sup> The Suspension Clause in Article I, sec. 9, cl. 2, directs that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”

<sup>49</sup> 97 Eng. Rep. (2 Burr.) 587 (K.B. 1759).

# Rendition

## *The Beast and the Man*

By KEVIN M. CIEPLY

Soldiers guard detainees near Tikrit, Iraq, March 2007

**T**ortured, incarcerated, and exiled, Niccolò Machiavelli swore never again to allow a throne to perish under the hand of aggression for want of action—bold, insidious action if need be. Left with nothing, Machiavelli concluded that a virtuous life, while overtly necessary, may lead to one's demise if not balanced with shrewd action. Wiser from his experience with defeat and imprisonment, he composed a book that captured the lessons he had learned, providing the necessary knowledge for effective leadership of the state. *The Prince*<sup>1</sup> is one of the most famous and perhaps infamous books on politics ever written. In it, Machiavelli comes to his most well-known conclusion: the ends justify the means.<sup>2</sup>

Over four centuries later, in 1985, another political thinker, George Kennan, took time to reflect on his experiences and shared his lessons learned concerning ethics in foreign relations. Kennan, father of the containment theory against the Soviet Union, countered Machiavelli, albeit not directly, with the following ethical observations:

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*Excessive secrecy, duplicity and clandestine skullduggery are simply not our dish—not only because we are incapable of keeping a secret anyway (our commercial media of communication see to that), but, more importantly, because such operations conflict with our own traditional standards and compromise our diplomacy in other areas. . . . One may say that to deny ourselves this species of capability is to accept a serious limitation on our ability to contend with forces now directed against us. Perhaps; but if so, it is a limitation with which we shall have to live.*<sup>3</sup>

Like Machiavelli, Kennan wrote these words as he reflected on significant life experiences.<sup>4</sup> For him, the way a nation conducts its business not only tells the world much about what that nation stands for but also produces the best geostrategic outcomes when it conducts its business openly, fairly, and humanely.

*Rendition* is the practice of capture and transfer of an individual from one nation to another for the purposes of subjecting the individual to interrogation without following normal processes of extradition or removal.<sup>5</sup> It is a secret process during which people suddenly disappear from public view for long periods, affording them no opportunity to object to the capture or transfer or

to seek third-party review to evaluate the capturing government's claims of fair play. Essentially, it provides no transparency or due process, and leaves little room for public evaluation. In the past, we have criticized other countries for exercising means exhibiting similar characteristics.

For those reasons, it is the type of practice that Kennan, later in his life, would reject with the quip “simply not our dish.” And, as Kennan so prophetically wrote, its secrecy was ineluctably undermined by our democratic system,<sup>6</sup> bringing forth a plethora of scrutiny,<sup>7</sup> complicating our relations with the European Union and the Council of Europe,<sup>8</sup> and diminishing our credibility as a world leader in human rights and a nation committed to the rule of law.<sup>9</sup>

But some aspects of rendition that would have concerned Kennan may be necessary in the Machiavellian sense. After all, Machiavelli advised, “You must know



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**George Kennan, the father of containment theory against the Soviet Union**

that there are two kinds of combat: one with laws, the other with force. The first is proper to man, the second to beasts; but because the first is often not enough, one must have recourse to the second. Therefore, it is necessary for a prince to know well how to use the beast and the man."<sup>10</sup>

Is rendition simply recourse to the beast at a necessary time? Or is it a practice that is inevitably inconsistent with the notions of morality, rule of law, and human rights? In short, is rendition a practice reluctantly allowed by the philosophy of Machiavelli but inalterably opposed by the idealism of Kennan, or a contemporary practice necessitated by circumstances that transcend traditional ethical theories?

One need not conceive of a hypothetical terrorist scenario to address this question. Let us look at the events surrounding the rendition of Khalid Sheikh Mohammed (KSM). To do so, we must first go back further in time to Abu Zubaydah. As President George W. Bush explained in his September 6, 2006, speech, Zubaydah "was a senior terrorist leader and a trusted associate of Osama bin Laden."<sup>11</sup> He was captured in Afghanistan shortly after 9/11 and questioned by the Central Intelligence Agency (CIA). He was initially uncooperative:

*We knew that Zubaydah had more information that could save innocent lives, but he stopped talking. As his questioning proceeded, it became clear that he had received training on how to resist interrogation. And so the CIA used an alternative set of procedures. . . . But I can say the procedures were tough, and they were safe, and lawful, and necessary.<sup>12</sup>*

Eventually Zubaydah "provided information to help stop a terrorist attack being planned from inside the United States, an attack about which we had no previous information."<sup>13</sup> He also identified KSM as the mastermind of the 9/11 terrorist attacks and identified "one of KSM's accomplices in the 9/11 attacks, a terrorist named Ramzi bin al-Shibh. The information Zubaydah provided

*to Machiavelli, even the renditions of El-Masri or Abu Omar would not discredit the practice, so long as the end results were achieved*

helped lead to the capture of bin al-Shibh. And together, these two terrorists provided information that helped in the execution of the operation that captured [KSM]."<sup>14</sup> News reports stated that KSM was captured in a suburb of Islamabad, Pakistan, on March 1, 2003. He was immediately rendered out of the country to an undisclosed location.<sup>15</sup>

It is important to note that the initial law enforcement methodology for dealing with KSM was unsuccessful. He was indicted in 1996 and a Federal arrest warrant was issued concerning his "alleged role in the airliner plot led by his nephew, Ramzi Yousef."<sup>16</sup> The indictment and warrant had no effect; it was rendition that brought him in. It is also important to note that KSM was not transferred to Guantanamo Bay until September 2006,<sup>17</sup> and he did not receive review by the Combatant Status Review Tribunal until March 10, 2007.<sup>18</sup> Over 4 years passed from the time of his capture and rendition to the time of the first hearing in which he was given any form of due process.

For every KSM, there may be a number of Khaled El-Masris or Abu Omars. The alleged facts of El-Masri's case indicated that in 2004, CIA agents seized him in Macedonia and flew him to Afghanistan for interrogation, where he claims he was beaten.<sup>19</sup> El-Masri was not charged with a crime.<sup>20</sup> Concerning Abu Omar, on June 24, 2005, he was reportedly abducted by CIA agents in Milan, driven to the U.S. Air Force Base in Aviano, and flown via the U.S. Air Force Base in Ramstein, Germany, to Egypt, where he was allegedly tortured.<sup>21</sup> He is free today and has not been charged. As a result, an Italian judge issued arrest warrants for 25 CIA agents and 1 U.S. Air Force officer concerning his rendition.<sup>22</sup>

What do these examples tell us? Machiavellians would point to KSM as a banner case. Although the "alternative"<sup>23</sup> means used against Zubaydah or Ramzi bin al-Shibh may have been distasteful to some, they nonetheless were necessary. To Machiavelli, even the renditions of El-Masri or Abu Omar would not discredit the practice, so long as the end results such as the capture and confession of KSM were achieved. Kennan, of course, would not agree. He would attribute the results to Machiavelli, admitting that an approach centered on appropriate "means" may not seem as effective in the short term. He would even concede that some may consider it a "limitation" but retort that it is a limitation with "which we shall have to live." In other words, to Kennan, the principles of this nation and its modus operandi cannot be compromised even if less principled practices would produce desirable results.

The 9/11 Commission report refers to this issue of principled action: "The U.S. government must define . . . what it stands for. We should offer an example of moral



Javier Solana, High Representative for the Common Foreign and Security Policy and Secretary-General of the Council of the European Union



Dick Marty, Chairman of the Committee on Legal Affairs and Human Rights of the Council of Europe



The Council of Europe's Parliamentary Assembly Session, June 2007

leadership in the world, committed to treat people humanely, [and] abide by the rule of law.”<sup>24</sup> The commission embraced the import in Kennan’s message that “means” matter.

Time will clarify whose approach, Kennan’s or Machiavelli’s, is best for this nation. In the meantime, perhaps there is a middle ground. By maintaining the practice of immediate capture,<sup>25</sup> tempered by subsequent measures of transparency and due process, the United States can preserve one of the main utilities of rendition while at the same time bringing it toward the fold of universally accepted moral behavior. Transparency would allow the world to verify that this nation abides by the rule of law even when it admits that our “alternative set of procedures” or “tough” methods were used. Due process would establish that individuals are treated humanely. This is to say that the sine qua non of humane treatment is due process.<sup>26</sup> This may place a “serious limitation” on the United States, but some aspects of rendition need to be “simply not our dish,” even as other aspects are necessary. **JFQ**

## NOTES

<sup>1</sup> Niccolò Machiavelli, *The Prince*, 2<sup>d</sup> ed. (Chicago: The University of Chicago Press, 1998), 1532.

<sup>2</sup> *Ibid.*, 61. This concept seems to come principally from the following: “Hence it is necessary to a prince, if he wants to maintain himself, to learn to be able not to be good, and to use this and not use it according to necessity.” This concept, in understanding Machiavelli, is best understood when limiting its relevance to the survival of the state.

<sup>3</sup> George F. Kennan, “Morality and Foreign Policy,” *Foreign Affairs* 64, no. 2 (Winter 1985/1986), 205.

<sup>4</sup> Kennan wrote these words as an academic after leaving the actual practice of statecraft.

<sup>5</sup> See Michael John Garcia, *Renditions: Constraints Imposed by Laws on Torture* (Washington, DC: Congressional Research Service, December 20, 2006).

<sup>6</sup> See Dana Priest, “CIA Holds Terror Suspects in Secret Prisons: Debate Is Growing within Agency about the Legality and Morality of Overseas System Set up after 9/11,” *The Washington Post*, November 2, 2005, A1. See also Jane Mayer, “Outsourcing Torture: The Secret History of America’s ‘Extraordinary Rendition’ Program,” *The New Yorker*, February 14, 2005, 106, available at <www.newyorker.com/printables/fact/050214fa\_fact6>.

<sup>7</sup> See Margaret L. Satterthwaite, *Rendered Meaningless: Extraordinary Rendition and the Rule of Law* (New York: Center for Human Rights and Global Justice, 2006), draft available at <http://www.chrgj.org/docs/wp/WPS\_NYU\_CHRGJ\_Satterthwaite\_Rendition\_Final.pdf>. See also the Committee on International Human Rights of the Association of the Bar of the City of New York (ABCNY) and Center for Human Rights and Global Justice (CHRGJ), “Torture by Proxy: International and Domestic Law Applicable to ‘Extraordinary Rendition’” (New York: ABCNY and CHRGJ, New York University School of Law, 2004), available at <www.nyuhr.org/docs/TortureByProxy.pdf>; Amnesty International, “Torture and secret detention: Testimony of the ‘disappeared’ in the ‘war on terror,’” Amnesty International Index: AMR 51/108/2005 (August 2005); Trevor Paglen and A.C. Thompson, *Torture Taxi: On the Trail of the CIA’s Rendition Flights* (Hoboken: Melville House Publishing, 2006); Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights, “Alleged Secret Detentions in Council of Europe Member States,” Information Memorandum II (January 22, 2006), available at <http://assembly.coe.int/Main.asp?link=/CommitteeDocs/2006/20060124\_Jdoc032006\_E.htm>; Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights, “Alleged Secret Detentions and Unlawful Interstate Transfers Involving Council of Europe Member States,” Draft Report—Part II (June 7, 2006), available at <http://assembly.coe.int/CommitteeDocs/2006/20060606\_Ejdoc162006PartII-FINAL.pdf>.

<sup>8</sup> See Condoleezza Rice, remarks upon her departure for Europe, December 5, 2005, available at <www.state.gov/secretary/rm/2005/57602.htm>.

<sup>9</sup> *The Washington Post* reported that China’s response to the 2006 *Country Reports on Human Rights Practices* (Washington, DC: Department of State, 2006) “has sharpened to reflect increasing reports of U.S. abuses against foreigners suspected of connections to terrorism. These include accusations of kidnapping, torture and imprisonment without legal recourse—the same abuses often raised by the United States with Chinese authorities.” See Edward Cody, “Beijing Hits Back at U.S. for Raising Rights Concerns,” *The Washington Post*, March 9, 2007, A16, available at <www.washingtonpost.com/wp-dyn/content/article/2007/03/08/AR2007030800747.html?nav=rss\_print/asection>.

<sup>10</sup> Machiavelli, 69.

<sup>11</sup> George W. Bush, remarks from the East Room of the White House, September 6, 2006, available at <www.npr.org/templates/story/story.php?storyId=5777480>.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Maria Ressa et al., “Top al Qaeda operative caught in Pakistan,” CNN.com, March 1, 2003, available at <www.cnn.com/2003/WORLD/asiapcf/south/03/01/pakistan.arrests>. Another report stated that: “[s]ome counterterrorism officials expressed frustration that the Pakistani government had so quickly disclosed information about [KSM’s] arrest.” See “Officials: Alleged al Qaeda paymaster in custody,” CNN.com, March 4, 2003, available at <www.cnn.com/2003/WORLD/asiapcf/south/03/03/pakistan.arrests>.

<sup>16</sup> Ressa et al.

<sup>17</sup> Bush.

<sup>18</sup> See “Verbatim Transcript of Combatant Status Review Tribunal Hearing for ISN 10024,” available at <www.foxnews.com/projects/pdf/transcript\_ISN10024.pdf>.

<sup>19</sup> See Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights, “Alleged Secret Detentions”; see also “Germany issues CIA arrest orders,” BBC News, January 31, 2007, available at <http://news.bbc.co.uk/1/hi/world/europe/6316369.stm>.

<sup>20</sup> *Ibid.*

<sup>21</sup> See Council of Europe Parliamentary Assembly Committee on Legal Affairs and Human Rights, “Alleged Secret Detentions,” 38; see also “Italy Orders CIA Agent Arrests,” CBS News/Associated Press, June 24, 2005, available at <www.cbsnews.com/stories/2005/06/24/world/main703982.shtml>.

<sup>22</sup> See Collen Barry, “Alleged Agents of CIA Charged, Judge Enables Trial in Italy,” *The Boston Globe*, February 17, 2007.

<sup>23</sup> Bush.

<sup>24</sup> National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: Norton, 2004), 376.

<sup>25</sup> Aggressive capture, even when it violates local law, may be justified under Article 51 of the United Nations Charter as self-defense. Moreover, the doctrine of *male captus bene detentus* recognizes that violation of law in the extraterritorial capture of an individual does not, per se, render the detention unlawful. Implied in this doctrine, however, is the expectation that the illegality of the capture should not infect postcapture treatment of the individual. See Malvina Halberstam, “International Kidnapping: In Defense of the Supreme Court Decision in *Alvarez-Machain*,” *American Journal of International Law* 86 (1992), 736, n. 11.

<sup>26</sup> Geoffrey S. Corn, “*Hamdan*, Fundamental Fairness, and the Significance of Additional Protocol II,” *Army Lawyer* 8 (August 2006), states that procedural legitimacy remains the sine qua non of compliance with the principle of humane treatment.

# The Role of TARGETED KILLING in the Campaign against Terror

By PETER M. CULLEN

982<sup>nd</sup> Combat Camera Company (Robert C. Brogan)



Top: Soldier uses laser to identify target in Diyala River Valley region of Iraq

Above: Satellite image of al Qaeda training camp at Zhawar Kili Base, Afghanistan, after U.S. cruise missile attack

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**T**argeted killing<sup>1</sup> is “the intentional slaying of a specific individual or group of individuals undertaken with explicit government approval.”<sup>2</sup> In recent years, targeted killing as a tactic in the ongoing campaign against terrorism has generated considerable controversy. Some commentators view it as an indispensable tool and argue for its expanded use, while others question its legality and claim that it is immoral and ultimately ineffective. The tactic of targeted killing is most closely associated with Israel’s campaign against the Second Palestinian Intifada.<sup>3</sup> Since September 11, 2001, however, the United States has consistently conducted targeted killing operations against terrorist personnel.

This article examines the legality, morality, and potential efficacy of a U.S. policy of targeted killing in its campaign against transnational terror.<sup>4</sup> The conclusion is that, in spite of the genuine controversy surrounding this subject, a carefully circumscribed policy of targeted killing can be a legal, moral, and effective tool in a counter-terror campaign. Procedures to guide the

proper implementation of a U.S. policy of targeted killing are proposed.

While the United States has not explicitly acknowledged pursuing a policy of targeted killing, insights can be gleaned from published national security documents<sup>5</sup> and official statements<sup>6</sup> that shed light on U.S. willingness to employ targeted killing as a tactic in the campaign against terror. This was most recently demonstrated in January 2007 by the use of an Air Force AC-130 Spectre gunship to target suspected al Qaeda terrorists in Somalia.<sup>7</sup> Based on publicly available information, if the capture of designated terrorists is not deemed feasible, the United States is prepared to use Central Intelligence Agency (CIA) or U.S. military assets to target them in lethal operations.<sup>8</sup> In addition to the recent operations in Somalia, targeted killings attributed<sup>9</sup> to the United States since 2001 have included attacks in the Federally Administered Tribal Areas of Pakistan and in Yemen.<sup>10</sup> These actions resulted in the deaths of numerous civilians,<sup>11</sup> highlighting the grim reality of collateral damage that adds greatly to the controversy surrounding targeted killing operations.

## Legal Considerations

There is broad divergence of opinion in the extensive literature on the legality of targeted killing of transnational terrorists. On one side, it is argued that targeted killings constitute extrajudicial killings or assassinations, which are prohibited under international law. Proponents of this position argue that terrorists are civilians, not combatants, and should be dealt with using conventional law enforcement methods rather than the more permissive law of war. They contend that terrorists can be killed only when there is no other way to prevent them from perpetrating an attack that endangers the lives of others. In all other circumstances, terrorists should be arrested, prosecuted, and punished for their crimes under the law. On the other side, it is argued that terrorists are direct participants in an armed conflict, so they may be lawfully targeted. According to this position, a state threatened by terrorists may always act in self-defense and properly target terrorists provided the methods are in compliance with the law of war.

That the topic of targeted killing can generate such divergent opinions from informed commentators reveals that the campaign against transnational terrorism represents a new paradigm with which international law has yet to come to terms. Public international law, accustomed to regulating actions by states, is in uncharted territory when dealing with nonstate actors and their involvement in the changing face of war. The ongoing U.S. campaign against terrorism does not fit neatly into the existing system on the use of force in international law. Although we are now years into the campaign against transnational terror, legal commentators are still wrestling with how best to analyze the legal issues generated when states use force against transnational terrorists.

Given the current need to reassure allies of its strong commitment to the rule of law, the United States must ensure that its policy on targeted killing is able to withstand proper legal scrutiny and not be viewed as pushing the outer limits of authorized state action.<sup>12</sup> The case for targeted killing must demonstrate that the United States is authorized to use force against terrorists in compliance with the law of conflict management, or *jus ad bellum*, and that the manner in which targeted killings are executed complies with the law on the conduct of war, or *jus in bello*.

*Authority to Use Force against Transnational Terrorists* (Jus ad Bellum). Article 2(4) of the United Nations (UN) Charter outlaws the use of aggressive force by a state in its international relations. One recognized exception is a state's inherent right of self-defense as found in Article 51 of the UN Charter. This authorizes a state to use military force to defend itself against an armed attack and the continuing threat of such an attack.<sup>13</sup> The limitations on this right of self-defense are that the force used to defend against the attack must be both "necessary" and "proportionate." Clearly, al Qaeda's actions on 9/11 constituted an armed attack on America, and its subsequent actions and statements confirm that it represents a continuing and serious threat to the United States against which America is entitled to defend itself through the use of force, specifically the targeting of key al Qaeda personnel.

It has been argued that the right of self-defense only applies to interstate conflicts and not to a conflict with a transnational terrorist organization such as al Qaeda and its associated movements (AQAM).<sup>14</sup> This textual interpretation of the UN Charter, however, is overcome by customary international law, which recognizes a state's inherent right of self-defense. This permits the United States to use force against nonstate actors such as transnational terrorists. It is a right that has not been challenged by the UN Security Council. Since AQAM are a continuing threat, the targeted killing of their key personnel is a military necessity to prevent future attacks. It is not designed to be punitive in nature or serve as a reprisal. This tactic is also a proportionate, or reasonable, response given the serious threat that AQAM pose to America.

Article 2(4) of the UN Charter also requires the United States to respect the sovereignty of other nations. If America wishes to conduct a targeted killing on the sovereign territory of another nation, it must obtain the permission of that government. In the documented instances of U.S. targeted killing operations in Pakistan, Yemen, and Somalia, it has been reported that these nations granted approval for these actions to be conducted within their borders.

*Legality of the Tactic of Targeted Killing* (Jus in Bello). Although the United States is authorized to use force in self-defense against AQAM for as long as they remain a threat, each specific use of force, such as a targeted

killing, must comply with the law on the conduct of war. The primary sources of *jus in bello* are found in the four Geneva Conventions of 1949 and their two Additional Protocols of 1977.<sup>15</sup> Application of the law of war is triggered if a state of "armed conflict" exists between America and AQAM. Treaties do not define this term. It is broader than "war," which is limited to interstate conflict.<sup>16</sup> Commentators recommend looking to the nature, intensity, and duration of the violence to make this determination.<sup>17</sup> The level and frequency of actual or planned violence around the globe between the United States or its allies and AQAM satisfy these criteria. Certainly, the U.S. Supreme Court in its recent *Hamdan v. Rumsfeld* decision had little difficulty in determining that U.S. military operations against AQAM were properly characterized as an "armed conflict."<sup>18</sup>

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*the campaign against transnational terrorism represents a new paradigm with which international law has yet to come to terms*

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It is also necessary to determine the type of conflict that exists between the United States and AQAM; namely, is it an international or a noninternational armed conflict? The answer determines which rules regulate the conduct of the conflict. With the exception of Common Article 3,<sup>19</sup> the four Geneva Conventions only apply to international armed conflicts. Recently, the U.S. Supreme Court in *Hamdan*<sup>20</sup> concluded that the armed conflict between the United States and AQAM was of a noninternational nature. This type of conflict is normally regulated by Additional Protocol II, but its provisions are limited to internal conflict between a government and nonstate actors within its territory. Clearly, this is not the case with the current U.S. conflict with AQAM, which is taking place primarily on the territory of third countries such as Pakistan, Yemen, and Somalia. Since such a restrictive interpretation would place the parties to the armed conflict between America and AQAM outside *jus in bello* and create an unacceptable gap in the law's coverage, it is necessary to expand the definition of a noninternational conflict to include one between a state and nonstate actors outside the state's own territory.<sup>21</sup> At a

minimum, the provisions of Additional Protocol II relating to noninternational armed conflict that reflect standards of customary international law should regulate this type of armed conflict,<sup>22</sup> to include that between the United States and AQAM.

Article 13(2) of Additional Protocol II incorporates the principle of distinction and mandates that the civilian population and individual civilians shall not be the object of attack. An exception to this is found in Article 13(3), which states that civilians forfeit protection “for such time as they take a direct part in hostilities.” The combatants in a noninternational armed conflict are the armed forces of the state and, inter alia, “organized armed groups.” In the International Committee of the Red Cross commentary on Additional Protocol II, it states that “[t]hose who belong to the armed forces or armed groups may be attacked at any time.”<sup>23</sup> In the context of the armed conflict between the United States and AQAM, this means that active members of AQAM are combatants and may be lawfully targeted at will.<sup>24</sup> Given the status of AQAM operatives as combatants, the United States is under no obligation to attempt to arrest individuals before targeting them. This combatant status remains in effect for the duration of the armed conflict unless the individual takes some action to renounce this status.

This analysis raises the question of how active members of a terrorist organization are properly identified. Unlike combatants in international armed conflicts, they are not required to display “a fixed distinctive sign recognizable at a distance.”<sup>25</sup> Nor should their combatant status be limited to the time that they have a weapon in their hands. The answer lies in designating as combatants those members of the terrorist organization who have taken an active part in hostilities. Proponents of this position argue that this status is established if the individual takes a direct part in hostilities by planning, directing, or executing attacks or “if there is other evidence of his or her combatant role.”<sup>26</sup> Such evidence will be primarily derived from intelligence information, often supplemented by the statements and admissions of the individuals themselves. A difficult issue is whether an individual who provides purely financial support for terrorist activities can be targeted as a combatant. Given the critical enabling role of financing in terrorist activities, such individuals should be viewed as having an active role in hostilities. The requirement for active participation,

however, would exclude individuals from being targeted who provide purely political support to a terrorist organization.

Even where terrorists are properly designated as combatants under Additional Protocol II and therefore subject to targeting at will, the actual targeting must still meet the requirement of proportionality under customary international law. The targeting operation will be held to violate international law if it “may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.”<sup>27</sup> Although the principle of proportionality is easy to state, it is notoriously difficult to apply. There is no mathematical formula to assist in determining whether the successful targeting of a terrorist outweighs the potential for collateral damage. The question of proportionality must be resolved based on the facts known at the time of the attack and not on the actual outcome of the operation. In reviewing the targeted killing operations attributed to the United States, it is clear that many, if not most, have resulted in the deaths of noncombatants. What is less certain is how many such operations have been aborted due to the risk they posed to noncombatants. David Kretzmer identified the dilemma facing decisionmakers: “When

as a result of an attack innocent persons are killed or wounded, a heavy burden rests on the state to show either that this could not reasonably have been foreseen, or that even if it could have been foreseen, the necessity of the attack was great enough to justify the risk.”<sup>28</sup>

*Jus in bello* also contains a prohibition of assassination in armed conflict.<sup>29</sup> This is often cited as a legal objection to the policy of targeted killing. *Assassination* in this context, however, is a term of art. It refers to the targeting of an individual using treachery or perfidy in time of war. There have been longstanding prohibitions of such unlawful ruses that undermine adherence to the law of war. Provided the manner of a targeted killing does not involve treachery or perfidy, it is not an illegal assassination under international law.

*Legality of Targeted Killing under Domestic Law.* Even if U.S. targeted killing of terrorists is legal under international law, it is also necessary to determine its legality under U.S. domestic law. Some commentators have pointed to Executive Order 12333<sup>30</sup> and its prohibition on assassination. Although this executive order regulating intelligence activities does have legal effect, it does not apply to actions in time of war or to the Armed Forces. Accordingly, it does not impact military operations that target terrorist operatives outside the United States.<sup>31</sup> Even if these exceptions were not available, it can reasonably be argued

Soldiers are briefed prior to search for high-value target individual in Adhamiyah district of Baghdad



982<sup>d</sup> Combat Camera Company (Jeffrey Alexander)

that the congressional resolution of September 18, 2001, authorizing the President to “use all necessary and appropriate force . . . in order to prevent any future acts of international terrorism against the United States,”<sup>32</sup> would suffice to address any domestic legal concerns about a policy of targeted killing of AQAM operatives.

While Executive Order 12333 presents no legal impediment to targeted killings executed by the Armed Forces, it could impact such operations conducted by CIA personnel, who are considered noncombatants under the law of war. Existing intelligence oversight laws have established a legal regime requiring Presidential findings and reporting to the intelligence committees before U.S. intelligence agencies can engage in covert actions, to include targeted killing operations.<sup>33</sup>

A review of the U.S. policy of targeted killing confirms that it has a valid basis under international and domestic law. The United States is legally justified in taking military action against AQAM as a matter of self-defense. AQAM are an organized force and their operatives are combatants in a noninternational armed conflict who can be targeted at will, provided such action is proportionate, does not involve perfidy or treachery, and respects the sovereignty of other nations.

## Moral Considerations

Provided that targeted killing operations comply with the law of war, one can make a convincing argument that they are consistent with the Just War tradition. By their very nature, they seek to target those terrorists who are intent on killing, maiming, and injuring innocent civilians. Even if targeted killings are lawful from a technical perspective, however, the question remains whether a democracy should choose to pursue such a policy in its campaign against terrorism. There are the inevitable concerns that targeted killing operations often result in the death of innocent civilians, even if proportionality concerns are satisfied.

These concerns highlight some of the dilemmas that terrorism presents any democratic society. It is part of the asymmetric advantage that terrorism enjoys. The alternatives to targeted killings, however, can also carry significant downsides. While the apprehension of a terrorist may seem an

attractive option, it can often pose a grave risk to the people conducting the arrest operation and endanger innocent noncombatants. Perhaps the best example was the attempt by U.S. personnel to arrest senior aides to Mohammed Farrah Aided, the Somali clan leader in Mogadishu, in December 1993. This single operation ultimately led to the death of 18 U.S. military personnel and hundreds of Somalis, both militia members and noncombatants.<sup>34</sup> If targeted killing is removed as an option and arrest is precluded, the remaining alternative—letting the terrorist continue to kill innocent civilians—is surely the least attractive moral option.

It is also important to remember that the fatalities associated with targeted killing operations are unintended deaths that result from terrorists deliberately hiding and operating among civilians. Significant moral responsibility for civilian casualties during targeted killing operations thus rests with the terrorists themselves. Finally, it must always be remembered that the sole reason for such operations is that the United States is acting in self-defense and seeking to protect its citizens from the continuing threat of attack by terrorists.

Targeted killing operations are a moral option provided that earnest efforts are taken to verify the accuracy of the intelligence on which they are based and that the operations

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*a review of the U.S. policy of targeted killing confirms that it has a valid basis under international and domestic law*

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AGM-114 Hellfire missile unloaded from MQ-1 Predator UAV after mission in Afghanistan

3<sup>d</sup> Communications Squadron (Jonathan Steffen)

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are conducted in a manner to minimize civilian casualties. Nevertheless, as a matter of policy, they should be used sparingly and only when no reasonable alternative is available. They must be preventive in nature and designed to forestall terrorist operations rather than as measures of punishment or reprisal.

### Efficacy

Is targeted killing likely to be an effective policy choice for the United States? Even if it is legal and moral, if it is not *effective* in combating terrorism, it should not be employed.

Opponents of targeted killing challenge the effectiveness of the policy on a number of grounds. The most frequent criticism is that successful targeted killings are counterproductive in that they create martyrs and generate a desire for retaliation. As such, they are viewed as motivating the terrorists and their base of support and thereby intensifying the cycle of violence. The counterargument is that terrorists such as AQAM have demonstrated that they are already highly motivated and their terrorism needs no encouragement.

Another criticism is that the policy is strategically flawed. The U.S.-led global campaign against terror is fundamentally a battle of ideas<sup>35</sup> in which a belief in freedom, democracy, and the rule of law competes against terror, intolerance, and extremist ideology. In this context, critics argue that targeted killings severely diminish global support for the American position among friends and allies. Unfortunately, targeted killings have yet to be broadly accepted as a legitimate exercise of a state's right to defend itself against terrorism. Criticism of U.S. targeted killings has come from respected entities such as the United Nations Special Rapporteur,<sup>36</sup> Amnesty International,<sup>37</sup> and the U.S.-based Human Rights Watch.<sup>38</sup> The United States must counter this criticism by doing more to promote the *legitimacy* of the policy. America must articulate the policy's legal and moral bases to international partners and the public at large and push for a formal updating of *jus in bello* to reflect a state's legitimate right to defend itself against transnational terrorism.

A third criticism is that in the campaign against terror—which is so dependent on intelligence—it does not make sense to kill the target when capture and interrogation would

produce significant benefits. This would be a valid criticism if the United States consistently passed on opportunities to apprehend targets in favor of killing them. Yet there are numerous instances where America has worked with allies to apprehend key terrorists. The targeted killings that have occurred were presumably under circumstances where capture was not a viable option or presented unreasonable risk to U.S. personnel.

The opposition to targeted killings increases dramatically when targeting errors occur and innocent noncombatants are killed. The answer, however, is not to stop targeted killings when they are justified, but to minimize mistakes with more timely and reliable intelligence and a careful process that reviews and approves all targeting missions.

In spite of the likelihood that mistakes will occur, the policy of targeted killing remains an effective tactic in the campaign against terror. The persistent targeting of key leaders significantly disrupts terrorist operations. Although the impact on AQAM is somewhat diminished because of their decentralized structure, skilled leaders in global terrorism are always difficult to replace, especially in the short term. Of equal importance is the fact that it compels terrorists to act defensively and devote a disproportionate amount of their time and energy to avoid being targeted instead of planning and executing attacks.

There are no metrics to measure the effectiveness of targeted killing. Although the Israeli government remains a strong proponent of the tactic in its campaign against terrorism, its situation is so different from America's that its experience may not be a useful reference. The policy of targeted killing must be viewed as one element of the broader U.S. campaign

against global terror. More time may be needed before it is possible to evaluate the cumulative impact of the policy. It is clear, however, that targeted killing has at least contributed to a cessation of AQAM attacks on U.S. territory. Outside of the Iraq and Afghanistan theaters of operations, there have been no significant attacks on major U.S. interests since September 11, 2001.

### Proposed Guidelines

The U.S. policy on targeted killing remains extremely controversial. It is a high risk, high payoff component in the campaign against terror. When successful, it eliminates key adversaries, disrupts terrorist planning, and highlights U.S. military prowess. When unsuccessful, it undermines U.S. credibility and severely

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*the persistent targeting of key leaders significantly disrupts terrorist operations*

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strains relations with other nations. As with any critical policy, it must be constantly reviewed, refined, and improved based on lessons learned. The following guidelines propose limitations designed to ensure the policy's continued legality and make it more acceptable to the world community without compromising its effectiveness.<sup>39</sup>

**Special Forces Soldier trains with MK12 sniper rifle**



Combat Camera Group Pacific (Eli J. Medellin)

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Establishing formal guidelines would also provide legal reassurance to those who are assigned the difficult task of planning and executing such operations.

*Whom to Target.* Although all active members of AQAM can legally be targeted, political considerations favor limiting the candidates for such operations to a short list<sup>40</sup> of high value operatives. The list should be reviewed and updated on a regular basis using the latest intelligence.

Generally, political leaders should not be targeted. This comes too close to political assassination and would encourage retaliatory attacks on U.S. or friendly nation political leaders. The distinction between members of the military and political wings of terrorist organizations may often be very difficult to draw, but the focus should remain on those individuals who take a direct role in planning, financing, or executing terrorist operations.

Targeted killings should not be conducted against U.S. citizens<sup>41</sup> or persons located within U.S. territory. Such operations in either circumstance would raise political concerns and troublesome issues related to domestic U.S. law.<sup>42</sup> If a legitimate terrorist target is located in another country, the United States must obtain authorization from the host nation before launching the operation. This avoids any violation of sovereignty under Article 2(4) of the UN Charter.

*Under What Circumstances to Authorize an Operation.* As an exercise of the right of self-defense, each targeted killing operation should be conducted to avoid reasonably imminent harm to U.S. or allied personnel or interests.<sup>43</sup> Given the continuing serious threat posed by AQAM, this requirement can be easily met. Targeted killing operations, however, should always be an option of last resort, where arrest is not feasible or the risk of casualties to U.S. personnel in apprehending the target is too great.

*Who Conducts Operations.* The analysis supporting the legality of targeted killings was premised on the fact that these operations are conducted by U.S. military personnel who qualify as combatants under the law of war. It is clear, however, that many U.S. targeted killing operations have been conducted by the CIA, whose personnel are noncombatants. Apart from the legal issues this creates, the use of CIA paramilitary personnel is troublesome because of the

agency's past association with illegal assassinations.<sup>44</sup> Such involvement produces skepticism in the international arena and makes it more difficult to prevail in the information war. The CIA has an important role in developing the actionable intelligence that is key to success. The operations themselves, however, should be executed solely by military personnel.<sup>45</sup> Another option is to encourage the governments within whose

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*the availability of precision-guided munitions is both a benefit and a hindrance*

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territory the terrorists are located to take the lead in conducting these operations, with appropriate assistance from the United States.<sup>46</sup>

*How to Conduct Targeted Killing Operations.* Targeted killing operations must always comply with the law of war. They must be a necessary and proportionate use of force in which every effort is made to minimize collateral damage. The use of treachery or perfidy is specifically prohibited.

The availability of precision-guided munitions is both a benefit and a hindrance. While such munitions are extremely effective in targeted killing operations and help minimize collateral damage, they have exponentially increased expectations that these operations can be conducted surgi-

cally without harm to noncombatants. As a result, there is less tolerance for collateral damage of any kind. This creates an almost impossible standard, as potential targets will deliberately seek refuge in civilian areas to discourage attack.

*Who Approves Targeted Killing?* Given the sensitivity of such operations, approval should be at the highest levels, preferably the President. This would help ensure a thorough vetting of each operation before it is submitted for approval. The current system used in approving covert intelligence operations<sup>47</sup>—Presidential findings of fact and reporting to the intelligence committees of Congress—is a model worth following. The Presidential finding of the operation's necessity (that is, the target poses a serious threat to the United States and arrest is not a viable option) would have to be based on clear and convincing evidence using the most current intelligence. Once approved, the mission would be tasked to the U.S. military.<sup>48</sup>

The notification to Congress is an important check on the process and will help ensure that the policy maintains public support. Obviously, notification may be difficult in the case of time sensitive operations, but every effort should be made to inform the intelligence committees prior to the operation or immediately thereafter.

Some have even argued that there should be legislative authorization for any policy of targeted killing.<sup>49</sup> While legally superfluous, such legislation would ensure a public debate

**AC-130 gunships were used to attack al Qaeda suspects in Somalia near Kenyan border**



U.S. Air Force

of the policy and its implications and a political consensus in support of its execution.<sup>50</sup>

Others have argued that a Foreign Intelligence Surveillance Act–type court should be established, whose review and approval would be required before launching a targeted killing operation.<sup>51</sup> Establishing judicial oversight of what is essentially an operational decision with clear political overtones would be excessive and set a precedent that might be problematic for other types of counterterrorism operations in the future.

Finally, the approval of the government in whose territory the terrorist is located will be required. In the case of governments that actively support terrorism, such as the Taliban in Afghanistan in 2001, the United States may fall back on the inherent right of self-defense as the basis for acting without the authority of the host government.

The National Security Advisor should be responsible for overseeing the process and ensuring it is properly implemented. To be effective, targeted killings must be interagency operations supported by all elements of national power. This would include a review of each operation to ensure compliance with procedures and identify lessons learned.<sup>52</sup>

The long-term success or failure of targeted killing as a component of the campaign against terror will depend on two capabilities in which the United States has been deficient to date: first, obtaining actionable intelligence to identify and locate targets; and second, winning the information war to persuade the domestic and international communities of the legality, morality, and effectiveness of such operations. The United States is expending considerable resources to improve its intelligence systems, but much more needs to be done to enhance its information operations capabilities.

America cannot afford to take a passive posture and allow critics to dominate the debate and characterize the tactic as extrajudicial killings or assassinations. The United States must aggressively explain the strong legal and moral bases for the policy and assure the world community that the tactic is invoked only when no reasonable alternatives are available to prevent the target from threatening the Nation and innocent civilians. It must be clearly demonstrated that all reasonable efforts are made to minimize collateral damage and that, where it does

occur, responsibility rests with the terrorists who operate out of civilian areas. All this requires a more transparent policy on targeted killing in which there is public confidence in its checks and balances to ensure proper targeting decisions are made. If targeted killing operations are supported by a comprehensive information operations strategy and professionally executed using timely and accurate intelligence, they will become an even more potent weapon against transnational terrorism. **JFQ**

#### NOTES

<sup>1</sup> A variety of terms are used to describe this tactic: *preventive killings*, *active self-defense*, *extrajudicial killings*, and *interceptions*. The term *targeted killing* has achieved the broadest acceptance and is preferred in this essay because it does not presume approval or disapproval of the tactic.

<sup>2</sup> Steven R. David, *Fatal Choices: Israel's Policy of Targeted Killing*, Mideast Security and Policy Studies No. 51 (Ramat Gan, Israel: The Begin-Sadat Center for Strategic Studies, September 2002), 2.

<sup>3</sup> According to B'Tselem, an Israeli human rights organization, between September 29, 2000, and January 31, 2007, Israeli security forces targeted and killed 210 Palestinians. An additional 128 civilian bystanders were also killed during these operations. See <[www.btsalem.org/English/Statistics/Casualties.asp](http://www.btsalem.org/English/Statistics/Casualties.asp)>.

<sup>4</sup> While this article focuses on the threat posed to the United States by al Qaeda and its associated movements, its conclusions apply equally to other terrorist organizations that present a similar danger.

<sup>5</sup> See George W. Bush, *National Strategy for Combating Terrorism* (Washington, DC: The White House, September 5, 2006), 11; and Donald H. Rumsfeld, *National Military Strategic Plan for the War on Terrorism* (Washington, DC: Department of Defense, February 1, 2006), 20, 24.

<sup>6</sup> "Gen. Peter Pace, chairman of the Joint Chiefs of Staff, told members of Congress on Friday [January 12, 2007] that the strike in Somalia was executed under the Pentagon's authority to hunt and kill terrorism suspects around the globe, a power the White House gave it shortly after the Sept. 11 attacks." See Mark Mazzetti, "Pentagon Sees Move in Somalia as Blueprint," *The New York Times*, January 13, 2007, A6.

<sup>7</sup> Ibid.

<sup>8</sup> William C. Banks, *The Predator* (Syracuse: Syracuse University, 2003), available at <[www.law.syr.edu/Pdfs/0predator-final.pdf](http://www.law.syr.edu/Pdfs/0predator-final.pdf)>. This study

cites numerous newspaper reports that President Bush signed an intelligence finding shortly after September 11 explicitly authorizing the targeting of designated al Qaeda personnel.

<sup>9</sup> Amnesty International, "Pakistan: U.S. Involvement in Civilian Deaths," January 31, 2006, accessed at <<http://web.amnesty.org/library/Index/ENGASA330022006>>.

<sup>10</sup> Norman Printer, "The Use of Force against Non-State Actors under International Law: An Analysis of the U.S. Predator Strike in Yemen," *UCLA Journal of International Law and Foreign Affairs* 8 (Fall/Winter 2003), 331, 335.

<sup>11</sup> Amnesty International, "Pakistan."

<sup>12</sup> U.S. Government practices concerning extraordinary rendition, secret CIA-operated prisons, interrogation practices, and military commissions have been criticized by other nations and international organizations. The United States needs strong international support and cooperation to succeed in its global campaign against terror. See Daniel Byman, "Do Targeted Killings Work?" *Foreign Affairs* 85, no. 2 (March/April 2006), 108–109.

<sup>13</sup> Under the theory of active defense, "a state may use past practices of terrorist groups and past instances of aggression as evidence of a recurring threat. In light of this threat, a state may invoke Article 51 to protect its interests if there is sufficient reason to believe that a pattern of aggression exists." See Howard A. Wachtel, "Targeting Osama bin Laden: Examining the Legality of Assassination as a Tool of U.S. Foreign Policy," *Duke Law Journal* 55 (2005), 677, 693.

<sup>14</sup> Tom Ruys, "License to Kill? State-sponsored Assassination under International Law," Working Paper 76 (Leuven: Institute for International Law, May 2005), 10, available from <[www.law.kuleuven.be/iir/nl/wp/WP/WP76e.pdf](http://www.law.kuleuven.be/iir/nl/wp/WP/WP76e.pdf)>.

<sup>15</sup> Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977 (Additional Protocol I); and Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977 (Additional Protocol II). The United States has not ratified either of these protocols, but much of their content is now considered part of customary international law.

<sup>16</sup> Kenneth Watkin, "Canada/United States Military Interoperability and Humanitarian Law Issues: Land Mines, Terrorism, Military Objectives, and Targeted Killing," *Duke Journal of International and Comparative Law* 15 (Spring/Summer 2005), 281, 292.

<sup>17</sup> Thomas Michael McDonnell, "Assassination/Targeted Killing of Suspected Terrorists—A Violation of International Law?" December 2005, accessed at <[http://library.law.pace.edu/blogs/jib/2005/12/assassinationtargeted\\_killing.html](http://library.law.pace.edu/blogs/jib/2005/12/assassinationtargeted_killing.html)>.

<sup>18</sup> *Hamdan v. Rumsfeld*, 126 S.Ct. 2749, 2795–2796 (2006).

<sup>19</sup> See Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field art. 3, August 12, 1949, 6 United States Treaty (U.S.T.) 3114, 75 United Nations Treaty Series (U.N.T.S.) 31; Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members at Sea art. 3, August 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War art. 3, August 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; and Geneva Convention Relative to the Treatment of Civilian Persons in Time of War art. 3, August 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287.

<sup>20</sup> *Hamdan*, 2795–2796.

<sup>21</sup> David Kretzmer, “Targeted Killing of Suspected Terrorists: Extra-Judicial Executions or Legitimate Means of Defense,” *European Journal of International Law* 16 (2005), 171, 190.

<sup>22</sup> *Ibid.*, 195.

<sup>23</sup> International Committee of the Red Cross, “Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949,” paragraph 4789, quoted in Kretzmer, 198.

<sup>24</sup> Kretzmer, 198. Although designated as combatants under Additional Protocol II, al Qaeda personnel enjoy none of the protections afforded combatants, such as immunity from prosecution for combat actions or prisoner of war status. See Orna Ben-Naftali and Keren R. Michaeli, “We Must Not Make a Scarecrow of the Law: A Legal Analysis of the Israeli Policy of Targeted Killings,” *Cornell International Law Journal* 36 (Spring 2003), 233, 268.

<sup>25</sup> Article 4A(2)(b), Geneva Convention Relative to the Treatment of Prisoners of War, 12 August 1949, 75 United Nations Treaty Series 135.

<sup>26</sup> Kretzmer, 199.

<sup>27</sup> This language is drawn from Article 51(5)(b) of Additional Protocol I. Although this applies to armed conflicts of an international nature, it accurately reflects the principle of proportionality under customary international law.

<sup>28</sup> Kretzmer, 201.

<sup>29</sup> Article 23(b) of the Annex to Hague Convention IV of 1907 (Convention Respecting the Laws and Customs of War on Land) stated that it was forbidden “to kill or wound treacherously individuals belonging to the hostile nation or Army.” Articles 37 and 44 of Additional Protocol I prohibit the perfidious killing or wounding of enemies. These provisions are now viewed as part of customary international law. See Wachtel, 686–687.

<sup>30</sup> Executive Order No. 12333, “United States Intelligence Activities,” 3 Code of Federal Regulations 200 (1982), reprinted in 50 U.S. Code, sec. 401 (2000).

<sup>31</sup> If an al Qaeda operative were physically present within the territory of the United States, this would become a matter for law enforcement and the criminal law of the United States.

<sup>32</sup> Public Law No. 107–40, 115 Stat. 224 (2001).

<sup>33</sup> William C. Banks and Peter Raven-Hansen, “Targeted Killing and Assassination: The U.S. Legal Framework,” *University of Richmond Law Review* 37 (March 2003), 667, 727–728.

<sup>34</sup> Michael R. Gordon and Thomas L. Friedman, “Details of U.S. Raid in Somalia: Success So Near, a Loss So Deep,” *The New York Times*, October 25, 1993, A1.

<sup>35</sup> Bush, 7.

<sup>36</sup> United Nations Commission on Human Rights, Report of the Special Rapporteur, “Civil and Political Rights, Including the Questions of Disappearances and Summary Executions” (E/CN.4/2006/53/Add.1), March 27, 2006, 264.

<sup>37</sup> Amnesty International, “United States of America: An Extrajudicial Execution by the CIA?” May 18, 2005, accessed at <<http://web.amnesty.org/library/index/engamr510792005>>.

<sup>38</sup> Kenneth Roth, “Drawing the Line: War Rules and Law Enforcement Rules in the Fight against Terrorism,” Human Rights Watch, World Report 2004, available at <<http://hrw.org/wr2k4/9.htm>>.

<sup>39</sup> These proposals draw on recommendations outlined in Philip Heymann and Juliette Kayyem, “Long-Term Legal Strategy Project for Preserving Security and Democratic Freedoms in the War on Terrorism,” Terrorism Information Center, 2004, available at <[www.terrorisminfo.mipt.org/Long-Term-Legal-Strategy.asp](http://www.terrorisminfo.mipt.org/Long-Term-Legal-Strategy.asp)>.

<sup>40</sup> Press reports indicate that President Bush approved just such a list as far back as 2002: “The Bush administration has prepared a list of terrorist leaders the Central Intelligence Agency is authorized to kill, if capture is impractical and civilian casualties can be minimized, senior military and intelligence officials said. The previously undisclosed list includes key al Qaeda leaders like Osama bin Laden and his chief deputy, Ayman al-Zawahiri, as well as other principal figures from al Qaeda and affiliated terrorist groups, the officials said. The names of about two dozen terrorist leaders have recently been on the lethal force list, officials said.” See James Risken and David Johnston, “Bush Has Widened Authority of C.I.A. to Kill Terrorists,” *The New York Times*, December 15, 2002.

<sup>41</sup> There is evidence that at least one U.S. citizen, Ahmed Hijazi, died during the targeted killing of Abu Ali al-Harithi on November 1, 2002, in Yemen. Hijazi was an occupant in the vehicle in which al-Harithi was traveling when it was struck by a Hellfire missile. See Printer, 335.

<sup>42</sup> Banks and Raven-Hansen, 674–679.

<sup>43</sup> Heymann and Kayyem, 67.

<sup>44</sup> These incidents were fully documented in Senate Report No. 94–465, “Alleged Assassination

Plots Involving Former Leaders,” November 20, 1975, better known as the Church Committee Report. Banks and Raven-Hansen, 702.

<sup>45</sup> For a contrary opinion on the role of U.S. military personnel in such operations, see Jennifer Kibbe, “The Rise of the Shadow Warriors,” *Foreign Affairs* 83, no. 2 (March/April 2004), 102. See also Richard A. Best, Jr., and Andrew Feickert, *Special Operations Forces (SOF) and CIA Paramilitary Operations: Issues for Congress* (Washington, DC: Congressional Research Service, updated December 6, 2006), available at <[www.fas.org/spp/crs/intel/RS22017.pdf](http://www.fas.org/spp/crs/intel/RS22017.pdf)>.

<sup>46</sup> An excellent example of such international cooperation was the joint Philippine-U.S. operation against the Abu Sayyaf terrorist group. Mark Bowden, “Jihadists in Paradise,” *The Atlantic*, March 2007, 54–75.

<sup>47</sup> Banks and Raven-Hansen, 726–729.

<sup>48</sup> It is instructive to review the process followed by the Israeli government before authorizing a targeted killing operation as described by Laura Blumenfeld, “In Israel, a Divisive Struggle over Targeted Killing,” *The Washington Post*, August 27, 2006, A1.

<sup>49</sup> Heymann and Kayyem, 69.

<sup>50</sup> Daniel Byman, “Targeted Killing, American Style,” *The Los Angeles Times*, January 20, 2006, B13, argues that the United States would be well served by mirroring Israel and having a robust public debate on the policy of targeted killing.

<sup>51</sup> Avery Plaw, “Fighting Terror Ethically and Legally: The Case of Targeting Terrorists,” (2006) available at <<http://www.cpsa-acsp.ca/papers-2006/Plaw.pdf>>. Plaw argues for a Federal Counterterrorism Oversight Court (FCOC). See also Byman, *Do Targeted Killings Work?* 8.

<sup>52</sup> On December 11, 2005, the Israeli Supreme Court ruled on the legality of targeted killings in the *Palestinian Territories in The Public Committee Against Torture in Israel v. The Government of Israel*, available at <[http://elyon1.court.gov.il/files\\_ENG/02/690/007/a34/02007690.a34.htm](http://elyon1.court.gov.il/files_ENG/02/690/007/a34/02007690.a34.htm)>. The court instituted a requirement for an investigation of each targeted killing after the fact. This would have the advantage of ensuring compliance with mandated procedures (especially the avoidance of collateral damage), enabling accurate responses to questions about specific operations, and institutionalizing the process of identifying lessons learned.

# Rethinking the U.S. Policy on the International Criminal Court

By BRIAN A. HOYT

**C**hanges to U.S. strategic policy since September 11, 2001, have shifted the focus of American security efforts toward building and maintaining strategic partnerships, as well as increasing the capacity of partner nations to respond to crises and contribute to local, regional, and international stability. These themes run throughout U.S. national security policy documents—including the National Security Strategy, National Defense Strategy, National Military Strategy, National Strategy for Maritime Security, and Quadrennial Defense Review—and the military Services are being reshaped accordingly. Changes in forces include an increased emphasis on language training and cultural awareness, greater engagement/theater security cooperation, and organizational changes to support more training and engagement with partner nations. The President's 2008 budget submission to Congress includes considerable funding in support of diplomatic and military programs fostering improved international partnerships.<sup>1</sup>

Unfortunately, U.S. policy on the International Criminal Court (ICC), including the associated American Service-members' Protection Act (ASPA) of 2002 and Nethercutt Amendment, runs counter to this strategic partnership theme. ASPA and the Nethercutt Amendment have strained U.S. relations with many partners and have caused significant damage at the operational and strategic levels. At the

operational level, ASPA has harmed military-to-military relationships, particularly in the case of international military education and training. At the strategic level, U.S. policy on the ICC separates the United States from the overwhelming majority of the world's modern societies and is further isolating America from its partners and potential partners. The official stance on the court impedes the ability of the Government to carry out the guidance contained in the policy documents listed above, with the strategic consequence of contributing to the decline of U.S. influence and image in the world.

Diminishing American influence has opened the door for other nations to fill the void. Of particular concern in the Western Hemisphere are the increasingly active political and economic roles played by China and Venezuela. The Pew Research Center's Global Attitudes Project, Gallup World Study, and other public opinion polls show that America's image has steadily declined.<sup>2</sup> The United States is increasingly viewed as unilateral, arrogant, self-serving, and hypocritical when its principles and national interests collide. The 2006 Gallup World Study confirmed what many already suspected: U.S. policies, not U.S. values, are to blame.<sup>3</sup> Those who profess to hate America actually hate its policies—good news for the United States, because policies can be changed.

Initial U.S. concerns about the ICC, while well founded, have not materialized in the 5 years the court has been in existence.

Over this period, many cases that have been investigated by the ICC have demonstrated both its effectiveness and impartiality. Given this track record, it is now appropriate to reappraise American policy. Research has shown that the organization is not well understood in the United States, particularly by the military.<sup>4</sup> This article examines Government policies related to the ICC and how they have affected U.S. interests. In an attempt to correct common misperceptions, the article also analyzes the major arguments for and against current policy on the ICC and related legislation.

## The International Criminal Court

The United Nations (UN) Diplomatic Conference of 1998 drafted the Rome Statute of the International Criminal Court. At that time, the United States was a leading proponent of the ICC and heavily involved in drafting the statute. The final vote at the conclusion of the conference was 120 nations in favor, 7 against,<sup>5</sup> with 21 abstaining. The United States voted against the statute, primarily due to concerns about legal protections for American Service-members deployed overseas in a peacekeeping role. The statute went into force in July 2002, 60 days after the 60<sup>th</sup> nation ratified the treaty. There are currently 105 state parties to the ICC. The United States, under the direction of President Bill Clinton, signed the treaty on December 31, 2000, but did not submit it to the Senate for ratification. In 2002, the Bush

Below, left to right: President Bush addresses joint session of Congress; report presented to members of the Assembly of States Parties who have agreed to participate in the ICC; the bench at the Nuremberg War Crimes trials, 1945–1946; Hermann Goering at Nuremberg War Crimes trials



White House (Eric Draper)



International Criminal Court



Harry S. Truman Library (Charles Alexander)



Harry S. Truman Library (Charles Alexander)

Commander Brian A. Hoyt, USN, is Executive Officer of Training Squadron 28 (VT-28) in Corpus Christi, Texas.

administration formally renounced any U.S. obligations arising from the 2000 signature (some have called this “unsigned” the treaty).<sup>6</sup> The treaty has yet to be ratified by the Senate.

The ICC is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity, and war crimes. Aggression is also mentioned in the statute but is not currently defined, and the court claims no jurisdiction over this crime. This topic is due to be discussed at the ICC’s 2009 Review Conference, and it could be adopted into the Rome Statute at that time.

The ICC is a court of last resort. It will not act if a case is investigated or prosecuted by a national judicial system unless the national proceedings are not genuine (for example, if formal proceedings were undertaken solely to shield a person from criminal responsibility). This notion, called *complementarity*, means the ICC complements, rather than competes with, national judicial systems.<sup>7</sup> In addition, the court has jurisdiction over war crimes only when they are committed as part of a plan or policy or as a part of a large-scale commission of such crimes. Thus, individual or isolated incidents of war crimes do not fall under the jurisdiction of the ICC. The nation of the individual involved is responsible for investigating those cases.

### **ASPA and the Nethercutt Amendment**

Though the United States is not a party to the ICC, Congress felt that the court still posed a risk to American citizens (military and civilian) serving overseas. In particular, if a member of the U.S. military were involved in a peacekeeping operation in a country that was a party to the ICC, that nation could conceivably detain and turn him over to the court if he was accused of violating a provision of the Rome Statute. Additionally, senior civilian officials of the U.S. Government could be charged with crimes. Because of this, the United States subsequently passed the American Service-members’ Protection Act, which is designed to induce ICC member nations to sign Bilateral Immunity Agreements (BIAs) with the United States. A BIA is an agreement in which the member nation agrees that it will not arrest, detain, prosecute, or imprison any U.S. citizen (civilian or military) on behalf of the ICC without Washington’s consent. This correlates to Article 98 of the Rome Statute, which acknowledges that a nation may have other international treaty obligations that over-

ride its obligations to the ICC.<sup>8</sup> Thus, BIAs are also known as Article 98 agreements.

ASPA prohibits U.S. military assistance to countries that are parties to the ICC but have not signed a BIA with the United States. For the purpose of ASPA, military assistance includes foreign military financing (including transfer of excess defense articles) and international military education and training. Foreign military financing provides grants to foreign nations to purchase U.S. defense equipment, services, and training. International military education and training provides education and training to students from allied and friendly nations. The fiscal year 2007 Defense Authorization Act removed the ASPA restrictions on international military education and training.

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### *U.S. concerns about the International Criminal Court have not materialized in the 5 years the court has been in existence*

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ASPA also prohibits any agency or entity of a U.S. Federal, state, or local government (including any court) from cooperating with the ICC. This includes providing support to the ICC, extraditing or transferring any U.S. citizen or resident alien to the court, or providing it legal assistance. Finally, ASPA prohibits any agent of the court from conducting investigative activity in the United States or on territory where the Nation has jurisdiction.<sup>9</sup>

A related law, known as the Nethercutt Amendment, also placed economic restrictions on states that have not signed BIAs.<sup>10</sup> Those states are restricted from receiving Economic Support Funds, which are designed to promote economic and political stability in regions where the United States has special security interests.

Exceptions to ASPA and the Nethercutt Amendment exist for major U.S. allies, including North Atlantic Treaty Organization (NATO) member nations, major non-NATO allies,<sup>11</sup> and Taiwan. States receiving assistance under the provisions of the Millennium Challenge Act<sup>12</sup> are not subject to the restrictions of the Nethercutt Amendment. ASPA also contains provisions for a Presidential waiver of its restrictions if the President certifies that it is in the national interest. Waivers have been approved for both ASPA and Nethercutt restrictions.

### **U.S. Policy**

The official U.S. position on the ICC has not changed since the court’s inception in 2002. The Department of State views the court as an unaccountable international body that could target American citizens overseas based on its political motives. Washington’s objections fall into four general categories, discussed below. Much of the angst about the ICC is based on an incomplete or inaccurate understanding of the Rome Statute, so the discussion also attempts to correct some common misperceptions surrounding the court.

First, the United States asserts that according to the Vienna Convention on the Law of Treaties, the Rome Statute is not binding on the United States and the ICC has no jurisdiction over states that are not party to the treaty.<sup>13</sup> The court claims jurisdiction over all persons whether or not their parent nation is a signatory. Second (and the fundamental concern of most U.S. military members) is that the court could claim jurisdiction over charges of war crimes by U.S. Servicemembers resulting from legitimate use of force or by senior civilian leaders resulting from foreign policy initiatives that are not viewed as legitimate by the ICC.<sup>14</sup> Of concern to senior military and civilian policymakers, the threat of prosecution could influence military and foreign policy decisions, thus infringing on U.S. sovereignty. Third, Washington’s position also cites a lack of legal procedural protections (such as right to a trial by jury) that are rights of U.S. citizens under the Constitution. Fourth, the United States raises concerns about accountability of the court—a lack of checks and balances—to prevent political manipulation by member nations or the court itself.

*Objection 1: Jurisdiction of the Court.* The Rome Statute states that the court has jurisdiction “on the territory of any State Party and, by special arrangement, on the territory of any other State.”<sup>15</sup> This means that U.S. forces serving in a country that is party to the Rome Statute are subject to ICC jurisdiction.<sup>16</sup> Although the United States, as a nonparty to the treaty, is not bound by the Rome Statute, the ICC claims jurisdiction over all states under certain circumstances. Washington objects to this claim. Furthermore, in 2002 the United States “unsigned” the treaty with a letter to the United Nations that expressed its intent not to become a party.

However, this objection is only a distraction from the fundamental objections outlined below and is really not central to the question of whether the United States should ratify the

ICC. This is only an issue when the Nation is not a signatory to the Rome Statute.<sup>17</sup> If America ratifies the Rome Statute, it obviously subjects U.S. nationals to the jurisdiction of the International Criminal Court.

*Objection 2: Infringement on U.S. Sovereignty.* It is accepted in the United States that actual war crimes will be punished by the American judicial system, whether by civilian or military courts. In the case of the ICC, the U.S. concern rests on who gets to decide whether charges of war crimes are legitimate, leading to potentially different interpretations of what constitutes a war crime. Differences between U.S. law and that of the International Criminal Court could cause the ICC prosecutor to view a case that was investigated or prosecuted in the United States as inadequate and could prompt prosecution by the ICC. There are indeed differences between U.S. law (including the Uniform Code of Military Justice) and the Rome Statute. These gaps could place a U.S. national in a gray area according to U.S. domestic law, but in direct violation of the Rome Statute. Thus, the concept of complementarity could be abrogated if the ICC determined that the U.S. judicial system was unable to sufficiently investigate or prosecute a crime as defined in the Rome Statute.

These gaps should be closed so that American citizens will be fully covered by the U.S. judicial system. The Rome Statute acknowledged that this situation might exist and included a provision that allows a nation to opt out of the ICC's jurisdiction over war crimes for 7 years after it ratifies the Rome Statute, allowing a period to amend domestic code to close the legal gaps between the Rome Statute and domestic laws.<sup>18</sup> While this is fundamentally an argument for strengthening the provision of complementarity, there are a few gaps that might not be easily closed.

One such case is exemplified by allegations of torture and abuse in the Abu Ghraib, Guantanamo Bay, and overseas Central Intelligence Agency (CIA) detention facilities. It is important to distinguish among these cases. In Abu Ghraib, the United States maintains that incidents of torture and abuse, though not isolated to one occurrence, were not part of a U.S. plan or policy. They would therefore not fall under the Rome Statute's definition of war crimes. In any case, the United States did investigate and prosecute the individuals involved, which would preclude the ICC prosecutor from initiating an investigation.

The Guantanamo Bay and overseas CIA detention facilities cases are more complicated. In both instances, the alleged crimes center around "enforced disappearance of persons," a crime against humanity according to the Rome Statute, and torture (waterboarding, sleep deprivation, and other controversial interrogation techniques), also a war crime. Because these alleged crimes were originally carried out as part of a U.S. plan or policy,<sup>19</sup> they could form the basis for an ICC case if a state party to the ICC, UN Security Council, or ICC prosecutor chose to refer the case to the court.

In the case of Guantanamo Bay, Cuba is not a member state, and the alleged crimes involve U.S. personnel, so U.S. nationals could only be subjected to ICC jurisdiction if the Security Council passed a resolution referring the case to the court, or if the United States or Cuba agreed to accept the court's jurisdiction. The first two scenarios are highly unlikely, but if the ICC prosecutor chose to refer a case to the court and Cuba chose to accept ICC jurisdiction, the case could be prosecuted under the Rome Statute. In the case of the overseas CIA detention facilities, it is possible that U.S. personnel could be subject to jurisdiction, but two conditions would be required: the CIA detention facilities were located in an ICC member state, and the member state did not sign a BIA with the United States. The location of these detention facilities has not been officially disclosed by the United States, so whether these conditions have been met is currently unclear. However, if both conditions

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*in Abu Ghraib, the United States maintains that torture and abuse were not part of a U.S. plan or policy*

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were met, the member state or the ICC prosecutor could refer a case to the International Criminal Court. If these conditions were not met, it is again possible—but unlikely—that a case could be investigated by the ICC if the UN Security Council passed a resolution or the United States or country in which the facility was located accepted ICC jurisdiction.

A second category of common concern is exemplified by supplementary U.S. rules of engagement (ROE) that have come to be called the *Mogadishu rules*, designed for the type of irregular warfare encountered in Somalia 1993. In this scenario, the combatants did not adhere to internationally recognized

standards of warfare such as openly carrying their weapons, wearing distinctive clothing that identified them as combatants, and not shielding themselves behind civilians. The supplementary ROE issued for these situations, which are approved by the Secretary of Defense, have occasionally been mischaracterized as not meeting the standards prescribed in the Law of Armed Conflict. In accordance with Department of Defense policy, however, all supplemental ROE are examined by Judge Advocates General with specific knowledge of operational law and approved by the chain of command up to and including the Secretary of Defense. It is implausible that supplementary ROE would be approved that put U.S. forces outside the protection of recognized international law.

Another concern is the ICC's currently undefined *crime of aggression*. Among U.S. military members, one of the commonly cited reasons for opposition to the ICC is the hypothetical case in which U.S. Servicemembers are part of a unilateral American action that does not have broad worldwide support. If the ICC adopts the crime of aggression article during the 2009 Review Conference, the court could interpret this hypothetical case as a crime of aggression, subjecting U.S. troops, military leadership, or civilian leadership to ICC prosecution. While this is a legitimate concern for the future, the United States as a party to the Rome Statute would be in a much stronger position to shape the definition of aggression. ICC working groups are currently meeting to



Released Abu Ghraib prison detainees board buses to transport them home

define aggression, but the United States is not officially represented and will not have a vote when and if the Rome Statute is amended.

*Objection 3: Procedural Protections.* The Department of State objects to the investigation or prosecution of American citizens by the ICC, stating that U.S. nationals should be dealt with by the American system of laws and due process. Accordingly, U.S. policy is “to encourage states to pursue credible justice within their own institutions, consistent with their responsibilities as sovereign states.”<sup>20</sup> This statement is not at odds with the basic goal of the ICC; indeed, it is a fundamental precept of the court and the foundation of the concept of complementarity that nations have jurisdiction over their own citizens. The ICC was created, however, to address the situation where the sovereign state is unable or unwilling to administer justice when a serious crime has been committed. This is not the case in American society. The United States has consistently shown the commitment to investigate and prosecute Americans who have committed war crimes, as evidenced by the prosecutions of Servicemembers in the Haditha, Fallujah, Ramadi, and Mahmoudiya rape and murder cases,<sup>21</sup> as well as the Abu Ghraib prisoner abuse cases. Furthermore, the ICC has jurisdiction over war crimes only “when committed as part of a plan or policy or as part of a large-scale commission of such crimes.”<sup>22</sup>

In the case of crimes that are not associated with armed conflict, such as an assault

or rape committed by a U.S. Servicemember or diplomat in a peacetime overseas environment, existing Status of Forces or Status of Mission agreements continue to prevail.<sup>23</sup> In the case of a crime committed by a U.S. civilian overseas, existing procedures prevail, namely the laws of the nation in which the crime was committed. These procedures are internationally recognized and accepted by the United States.

*Objection 4: Political Manipulation.* Those who favor current policy on the ICC and ASPA state that the Rome Statute could leave American nationals open to prosecution by a court system that does not share all of the same protections as the U.S. judicial system. According to the State Department, the ICC lacks necessary safeguards to ensure against politi-

ted in Iraq.<sup>28</sup> This is an interesting case because Iraq and the United States are not parties to the ICC, but other coalition nations (including the United Kingdom) are. Under the Rome Statute, this excludes the United States from ICC jurisdiction but includes the United Kingdom, which fully cooperated with the court, providing substantial documentation of the alleged crimes. The Prosecutor’s Office reviewed each of the communications and produced a crime analysis from all available information. The majority of alleged crimes were war crimes (as opposed to genocide or crimes against humanity). Many allegations related to the crime of aggression—the legality of the conflict.

The court reiterated that it has no jurisdiction over aggression and found that there was no evidence of genocide, crimes against humanity,

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*according to the State Department, the International Criminal Court lacks necessary safeguards to ensure against politically motivated investigations and prosecutions*

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cally motivated investigations and prosecutions. The Department maintains that ICC authority under the Rome Statute is too broad and that even if the United States were to appropriately exercise its responsibilities to investigate or prosecute in a particular case, the ICC prosecutor could still decide to initiate an investigation or prosecution with concurrence of two judges from a three-judge panel, and the United States would have no recourse to appeal to a higher body.<sup>24</sup> There does exist a system of checks and balances within the court, including an appeals process. That process, however, does not include an appeal to a body above the ICC, such as the United Nations.<sup>25,26</sup> The Rome Statute also requires that biased judges be excused and places restrictions on the prosecutor’s ability to initiate investigations. According to some legal experts, “since the ICC Prosecutor arguably has less authority than a United States district attorney or county prosecutor, the claim that the ICC will pursue politically motivated prosecution appears quite weak.”<sup>27</sup>

Early predictions that the court prosecutor would investigate or prosecute politically motivated cases have not materialized. In fact, the opposite has happened: the court has resisted political pressure to prosecute certain alleged crimes. In an illuminating 2006 letter from the ICC prosecutor, the International Criminal Court acknowledged that it had received over 240 communications from citizens and organizations alleging crimes commit-

or war crimes that fell under its jurisdiction. According to the court, there were isolated criminal acts but no plan or policy to commit those acts by the nations involved. Additionally, the court reviewed the use of cluster munitions. While antipersonnel mines are prohibited by the Ottawa Treaty (to which the United Kingdom is a signatory and the United States is not), they are not specifically prohibited by the Rome Statute; thus, their use did not violate any specific restrictions. Going one step further, the ICC also looked at the use of cluster munitions from the broader perspective of a war crime (“targeting civilians” or “clearly excessive attacks”). The court found that in all cases, cluster munitions were used in a manner consistent with the international law of armed conflict, so there was no reasonable basis to conclude that their use could constitute a war crime.

In the instances of isolated criminal acts, the court noted that national criminal proceedings had been undertaken by the countries involved. The court reiterated that in any case, it did not have jurisdiction for war crimes unless they were committed as part of a plan or policy or as part of a large-scale commission of war crimes. No evidence of such a plan or policy was found.

The ICC passed a crucial U.S. test in Iraq: that it works as designed, free of politically motivated investigations or prosecutions. In doing so, it established legal precedent that will guide future cases.



4th Combat Camera Squadron (Roy Santana)

### Additional Considerations

From a strategic view, U.S. policy on the ICC has a negative impact on how most other nations view the United States. Washington is among the world champions for human rights and rule of law and is vocal in pointing out what it considers to be other governments' violations. Yet the U.S. stance that Americans should be exempt from the jurisdiction of an international court that may not always find in their favor leads others to believe that the values and principles that Americans frequently proclaim others should adopt do not appear to match U.S. policies. This contributes to the world view of U.S. policy as arrogant and hypocritical.

Beyond the points outlined earlier, there are additional considerations regarding Washington's policy on the ICC that many U.S. nongovernmental organizations espouse. The first is ideological. American values are closely aligned with those advocated by the ICC, namely accountability, equality, and justice. If the ICC is even partially successful in its goal of deterring crimes against humanity, genocide, and war crimes, it could ultimately serve to reduce human suffering. Second, and on a more practical level, an effective and impartial ICC is in the best interests of the United States. If the court deters these crimes, it may reduce requirements for worldwide crisis intervention (primarily humanitarian assistance and peace-keeping operations). This could translate to reduced requirements for the U.S. military.

The Department of State has obtained over 100 BIAs, but it appears that the point of diminishing returns has been reached. Those nations that have not yet signed a BIA are unlikely to. The paradox is that many of the remaining nations are those with which the United States needs to improve relations, and ASPA sanctions are making these strained relationships even worse. Particularly enlightening are recent comments from Latin American leaders who, as Adam Isacson said in Senate testimony, are "wearing their refusal to sign Article 98 agreements as a badge of honor."<sup>29</sup> The U.S. policy of ASPA sanctions has not worked with many Latin American nations.<sup>30</sup> Instead of bringing these countries into the fold, sanctions have amplified tensions in a region already hostile to Washington, contributed to the perception of the United States as a bully, and helped U.S. competitors (particularly China and Venezuela) make inroads.

### Negative Impacts

Ratifying the Rome Statute and repealing the associated ASPA and Nethercutt legislation would not be without political and financial costs. Domestically, there is not a wide awareness of these issues. Where there is awareness, it appears to be superficial and often subject to xenophobic influences.

Changing these policies without also changing American perceptions of the ICC could be politically damaging to U.S. policymakers and legislators. The appearance of "softening" is not appealing to Congress, especially while U.S. troops are engaged in Iraq and Afghanistan. While the Bush administration, State Department, and Defense Department continue to oppose changes to current policy, shooting silver bullets in a perceived steep uphill battle is another congressional concern.

Internationally, there may be some impact on relationships with those nations that have already signed BIAs. Many of these nations' leaders expended valuable political capital getting their national legislatures to ratify the agreements, and the United States should acknowledge this by extending some benefit to these countries if sanctions are lifted for all nations without BIAs.

There will be relatively minor impact on the U.S. budget if these programs are restored. The annual cost of affected programs would need to be considered. Finally, there will be some danger to U.S. citizens. The "gaps" in U.S. law, including the Uniform Code of Military Justice, need to be closed to maximize the application of the concept of complementarity. The Rome Statute acknowledges that requirement and allows 7 years for a new party to make those changes. If those alterations are not completed within this time, U.S. citizens may be at risk.

The Armed Forces are planning and executing the strategic guidance as directed in national policy documents. The policy guidance from these documents that emphasizes building and maintaining relationships with partner nations is carried forward in State, Defense, and Service policy documents and is shaping the way the Services organize, train, and equip forces. However, national policy on the International Criminal Court, including the American Service-members' Protection Act of 2002 and its Article 98 requirements, is impeding execution of this guidance. It has also had numerous unintended negative effects. Until this policy is aligned with national strategic guidance,

ASPA restrictions will hamper efforts to build and maintain relationships with emerging and existing partner nations.

Much of the opposition to the International Criminal Court is based on limited or incorrect understanding of the authority, operation, and limits of the court. The debate on the court needs to be reopened, and the debaters need to have the facts. They also need to approach the debate from a strategic perspective that acknowledges that compromise on tactical issues is often required to attain strategic victory.

Retired Ambassador to Saudi Arabia Chas Freeman recently addressed the new Members of Congress about national security policy. His remarks echo those of a host of former and current diplomats but could have been made by anyone who has ever been part of a successful team: "To lead as a team, you must know how to be a team player. To inspire people or nations to follow you, you must have a reputation for moral uprightness, wisdom, and veracity. To hold other people or nations to rules, you must show that you are prepared to follow them too. We all know these things. Why don't we act accordingly?"<sup>31</sup> While Ambassador Freeman was talking about U.S. policy coordination in general, his remarks are applicable to the specific issue of policy toward the International Criminal Court. It is time to reexamine U.S. policy on the court, and it should be done through a strategic lens. **JFQ**

### NOTES

<sup>1</sup> The President's 2008 budget submission to Congress includes approximately \$1.5 billion in the State and International Programs budget for "promoting democratic transitions" and \$1.5 billion for "broad outreach to developing and oppressed countries around the world through international broadcasting, exchanges, and public diplomacy."

<sup>2</sup> See The Pew Global Attitudes Project at <www.pewglobal.org>.

<sup>3</sup> John L. Esposito, "It's the Policy, Stupid: Political Islam and U.S. Foreign Policy," *Harvard International Review*, November 2, 2006, available at <http://hir.harvard.edu/articles/1453/>.

<sup>4</sup> For an excellent study of the International Criminal Court and U.S. military, see Victoria K. Holt and Elisabeth W. Dallas, *On Trial: The U.S. Military and the International Criminal Court* (Washington, DC: The Henry L. Stimson Center, March 2006), available at <www.stimson.org/fopo/pdf/US\_Military\_and\_the\_ICC\_FINAL\_website.pdf>.

<sup>5</sup> Algeria, China, Israel, Libya, Qatar, the United States, and Yemen.

<sup>6</sup> In a May 6, 2002, letter to UN Secretary-General Kofi Annan, Under Secretary of State for

Arms Control and International Security John R. Bolton wrote that “the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000.” This removed any obligations the United States had as a *signatory* of the treaty (versus a party that had *ratified* the treaty) in accordance with Articles 12 and 18 of the Vienna Convention on the Law of Treaties.

<sup>7</sup> Rome Statute of the International Criminal Court, Article 1, available at <[www.un.org/law/icc/statute/english/rome\\_statute\(e\).pdf](http://www.un.org/law/icc/statute/english/rome_statute(e).pdf)>.

<sup>8</sup> *Ibid.*, Article 98.

<sup>9</sup> American Service-Members’ Protection Act of 2002, Public Law 107–206.

<sup>10</sup> The Nethercutt Amendment does place limitations on Economic Support Fund (ESF) assistance for certain foreign governments that are parties to the ICC, *but goes on to say* that ESF will not be made available to a country if they are a party to the ICC *and have not entered into an agreement with the United States pursuant to Article 98* of the Rome Statute. See Public Law 109–102, Title 5, Section 547, para. a.

<sup>11</sup> Designated U.S. major non-NATO allies are Argentina, Australia, Bahrain, Egypt, Israel, Japan, Jordan, Kuwait, Morocco, New Zealand, Pakistan, the Philippines, South Korea, and Thailand.

<sup>12</sup> The Millennium Challenge Account is a U.S.-funded development fund.

<sup>13</sup> Article 34 of the 1969 Vienna Convention on the Law of Treaties states that a treaty does not create either obligations or rights for a third state without its consent. However, Article 38 states that rules in a treaty become binding on third states through international custom. The rules of the Rome Statute could become international customary law through common use over time. The Vienna Convention on the Law of Treaties entered into force in 1980.

<sup>14</sup> Holt and Dallas.

<sup>15</sup> Rome Statute of the International Criminal Court, Article 4.

<sup>16</sup> *Ibid.*, Article 12.

<sup>17</sup> The United States, like most nations, accepts the principle of customary international law (as distinct from treaty law). Washington accepts the binding nature of customary international law in this case. A particular category of customary international law, *jus cogens*, refers to a principle of international law so fundamental that no state may opt out by way of treaty or otherwise. Examples of this are genocide and crimes against humanity. See a short description of customary international law at <[www.ll.georgetown.edu/intl/imc/imcothersourcesguide.html](http://www.ll.georgetown.edu/intl/imc/imcothersourcesguide.html)>.

<sup>18</sup> Rome Statute of the International Criminal Court, Article 124.

<sup>19</sup> The United States classified the detainees in these facilities as “unlawful combatants” as opposed to prisoners of war (POWs), affording them different rights than POWs (POW status provides internationally recognized protections under the Geneva

Conventions). The U.S. Supreme Court recently determined that Common Article 3 to the Geneva Conventions of 1949 applies as a matter of law to the conflict with al Qaeda, prompting changes to the U.S. policies under discussion. Common Article 3 of the Geneva Conventions of 1949 requires the humane treatment of any personnel detained, whether they are ultimately determined to be prisoners of war, unlawful enemy combatants, retained persons, or civilian internees.

<sup>20</sup> U.S. Department of State, “Fact Sheet: Frequently Asked Questions about the U.S. Government’s Policy Regarding the International Criminal Court (ICC),” July 30, 2003, available at <[www.state.gov/t/pm/rls/fs/23428.htm](http://www.state.gov/t/pm/rls/fs/23428.htm)>.

<sup>21</sup> Ryan Lenz, “GIs May Have Planned Iraq Rape, Slayings,” *The Washington Post*, July 1, 2006.

<sup>22</sup> Rome Statute of the International Criminal Court, Article 8.

<sup>23</sup> These scenarios apply to crimes not associated with armed conflict (and therefore generally outside the stated jurisdiction of the ICC, which considers war crimes, genocides, and crimes against humanity).

<sup>24</sup> U.S. Department of State.

<sup>25</sup> Though the UN Security Council can refer cases to the ICC, the UN has no direct authority over the ICC. The UN consciously separated itself from the ICC to avoid perceptions of political influence on the court. John Bolton, in his July 1998 testimony to the Senate Foreign Relations Committee, objected to this separation, stating that the UN was being marginalized. The UN Security Council, per Article 24 of its charter, is charged with “primary responsibility for the maintenance of international peace and security.”

<sup>26</sup> The UN Security Council does have the ability to delay investigation or prosecution of a case for a year by passage of a resolution. There are no restrictions on how many times such a resolution may be passed.

<sup>27</sup> Lilian V. Faulhaber, “American Servicemembers’ Protection Act of 2002,” *Harvard Journal on Legislation* 40, no. 2 (Summer 2003).

<sup>28</sup> For the text of this letter, see <[www.icc-cpi.int/library/organs/otp/OTP\\_letter\\_to\\_senders\\_re\\_Iraq\\_9\\_February\\_2006.pdf](http://www.icc-cpi.int/library/organs/otp/OTP_letter_to_senders_re_Iraq_9_February_2006.pdf)>.

<sup>29</sup> See testimony of Adam Isacson, Director of Programs, Center for International Policy, before the Western Hemisphere, Peace Corps, and Narcotics Affairs Subcommittee, Committee on Foreign Relations, U.S. Senate, “The Impact on Latin America of the Servicemembers’ Protection Act,” March 8, 2006, available at <[www.senate.gov/~foreign/testimony/2006/IsacsonTestimony060308.pdf](http://www.senate.gov/~foreign/testimony/2006/IsacsonTestimony060308.pdf)>.

<sup>30</sup> Latin American signatories include Antigua and Barbuda, Belize, Colombia, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Honduras, Nicaragua, Panama, and Saint Kitts and Nevis.

<sup>31</sup> Chas W. Freeman, Jr., “National Security in the Age of Terrorism,” remarks to new Members of Congress in Williamsburg, Virginia, January 6, 2007, available at <[www.saudi-us-relations.org/articles/2007/10/070111p-freeman-security.html](http://www.saudi-us-relations.org/articles/2007/10/070111p-freeman-security.html)>.

# Topical Symposium

## Building Partner Capacity at Home and Abroad

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Information is available at [www.ndu.edu/inss](http://www.ndu.edu/inss); click on “Conferences.”

# The International Criminal Court:

By JAMES P. TERRY

In this issue of *JFQ*, Commander Brian Hoyt, USN, presents a thoughtful argument that U.S. policy on the International Criminal Court (ICC), established in 2002, should be changed. He maintains that since the attacks on the World Trade Center and Pentagon on September 11, 2001, U.S. national security policy requires a more integrated approach with the Nation's strategic partners, including judicial cooperation, to ensure success in managing the war on terror and to guarantee that our principles and national interests are not in conflict. He further urges that our current stance with respect to the ICC will have the strategic consequence of fostering the decline of U.S. image and influence in the world community.

I respectfully disagree. Just as in 1937,<sup>1</sup> when discussions focused on similar development of an international tribunal, the concern today relates to guaranteed constitutional rights of American citizens and military personnel and whether those rights can be recognized

under international law—in this case, the Rome Statute—*independent* of U.S. domestic law and constitutional guarantees. Despite these differences, the U.S. Government shares the commitment of parties to the Rome Statute to bring to justice those who perpetrate genocide, war crimes, and crimes against humanity. While the United States and other nations may have honest differences over how accountability is best achieved, this nation has always worked closely with other states to make sure that perpetrators of these atrocities are held accountable for their actions.

This discussion focuses not only on the legal requirements and policy reasons for our separate approach but also on our respect for the rights of other nations to become parties to the Rome Statute.

## The Rome Statute

When the representatives of more than 130 nations gathered in Rome in 1998 for negotiations to create a permanent International

Criminal Court, the U.S. representatives arrived with the firm belief that those who perpetrate genocide, crimes against humanity, and war crimes must be held accountable. In fact, the United States has traditionally been the world leader in promoting the rule of law and ensuring the effective prosecution of these offenses. Following World War II, it was American leadership that responded to the worst tyranny on record and supported, through funding and personnel, the tribunals at Nuremberg and in the Far East. More recently, it was U.S. support that ensured the success of the International Criminal Tribunals in the former Yugoslavia and Rwanda.

Without question, it has been the United States that has been in the forefront of promoting human rights, ensuring international justice, and demanding accountability of the world's worst criminal offenders. But as worthy as the precepts underlying the Rome negotiations are, the statute that emerged establishing the ICC, which began functioning on July 1, 2002, did not effectively advance them with respect to the constitutional protections guaranteed to American Servicemembers and citizens.

**Colonel James P. Terry, USMC (Ret.), is the Chairman of the Board of Veterans Appeals in the Department of Veterans Affairs. He previously served as Principal Deputy Assistant Secretary and Deputy Assistant Secretary in the Department of State and as Legal Counsel to the Chairman of the Joint Chiefs of Staff.**

Fifth plenary meeting of ICC Assembly of States Parties elects judges in 2006



ICC-CPI

# A Concept Whose Time Has *Not* Come

After 5 years, we do not find that our posture on the ICC has precluded the effectiveness of our relations with other national states in any meaningful way. We do, however, continue to believe that without significant changes in the ICC and Rome Statute, we can never become full partners in the court's operation. The problems identified by U.S. negotiators from 1998 onward are well known and much publicized, but are nevertheless worth reciting here so the debate can be joined.

U.S. concerns with the Rome Statute fall into three main categories. The first is that subjecting American Servicemembers to trial before the International Criminal Court for offenses within the judicial authority of the United States would violate the exclusive rights of our citizens.<sup>2</sup> The second is that our ratification of the Rome Statute would constitute a partial surrender of American sovereignty for those U.S. forces serving in United Nations (UN)-monitored military conflicts. The third concern relates to the corrosive impact that the ICC, as presently structured, could have on the effectiveness of other UN institutions.

The first category relates to the fact that ICC prosecutors and judges are not bound

by the Constitution; are not appointed by the President, as are all Federal prosecutors and judges and all military officers; are not confirmed with the advice and consent of the Senate; and are not required to guarantee for defendants the application of protections within the first 10 Amendments to the Constitution. In fact, U.S. citizens brought before the ICC would only generally enjoy the rights we hold so dear in this country.

fact, ICTFY prosecutors have argued at The Hague that a far longer period of confinement, up to 5 years, would not violate the defendant's fundamental rights.

Equally significant, the right of confrontation, guaranteed by the Sixth Amendment to the Constitution, is largely diluted under ICC practice. The ICTFY practice, upon which the ICC is based, allows virtually unlimited hearsay evidence and anonymous witnesses to testify in

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*the United States has traditionally been the world leader in promoting the rule of law and ensuring the effective prosecution of offenses*

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For example, under U.S. law, a military prosecutor must bring a defendant to trial within 90 days or release him.<sup>3</sup> Under the Rome Statute, ICC prosecutors must only ensure defendants "the right to be tried without undue delay." Under the International Criminal Tribunal for the Former Yugoslavia (ICTFY), which contains the same speedy trial language in its charter and serves as the model for the ICC, criminal defendants can often wait more than a year in confinement prior to trial. In

trials, large portions of which have been conducted in secret. Such practices do violence to the presumption of innocence.

In a similar way, the ICC statute permits a judgment of acquittal to be appealed to an appellate body. This directly conflicts with the Constitution's protection against double jeopardy, but again, it parallels the ICTFY statute. In the Yugoslav Tribunal to date, the prosecutors have appealed every judgment of acquittal.

Defendants in post-World War II Nuremberg trials



DOD

Likewise of great concern is the failure of the ICC to afford the right to a jury trial, guaranteed to U.S. citizens in both the Sixth Amendment and in Article III, section 2, of the Constitution. While Commander Hoyt argues that this right is more than offset by the wisdom represented by three experienced jurists, this procedure permits the ICC to perform all functions of the judicial process—investigator, prosecutor, court, and jury—an approach fundamentally at odds with the legal tradition of the United States.

Those supportive of ratifying the Rome Statute argue that because the ICC (if the United States were to accede) would not be a court of the United States, the provisions of the Bill of Rights and Article III, section 2, would not apply. They further argue that in our extradition treaties with myriad nations, we provide reciprocal rights to foreign governments, with different legal systems, to try Americans for crimes committed abroad. The difference is that the ICC statute would permit the court to try Americans who have never left the United States, for actions taken within the borders of this country, without providing these constitutional protections.

While there has been no case precisely on point, in a 1998 case, *United States v. Balsys*, the Supreme Court stated that where a prosecution by a foreign court is, at least in part, undertaken on behalf of the United States, and where “the United States and its allies had enacted substantially similar criminal codes aimed at prosecuting offenses of international character,” then an argument can be made that the first 10 Amendments to the Constitution would apply

“simply because that prosecution [would not be] fairly characterized as distinctly ‘foreign[.]’ The point would be that the prosecution was acting as much on behalf of the United States as of the prosecuting nation.”<sup>4</sup> This is arguably the case with the International Criminal Court.

Proponents of ratification have also urged that it is highly unlikely that ICC jurisdiction would ever be directed to U.S. Servicemembers or citizens, and thus the import of our constitutional arguments should be minimized. Unfortunately, it is hard to imagine that the divisions among nations should ICC jurisdiction be applied in a conflict in which the United States is involved would be any different than our experience in Bosnia from 1991 to 1995, where Russia and China objected to our actions. Under their pressure and with the support of international human rights activists, ICTFY investigators in The Hague targeted actions of the North Atlantic Treaty Organization based on civilian deaths resulting from the air bombardment. This occurred despite the precise targeting involved and the fact that our actions were designed to preclude a humanitarian disaster.

It is also asserted by Commander Hoyt and other proponents of ratification that the principle of “complementarity” will ensure that only the United States can prosecute its

*the ICC statute would permit  
the court to try Americans  
who have never left the  
United States*

own citizens. This principle, addressed in Article 17 of the Rome Statute, prohibits the ICC from exercising jurisdiction if the appropriate national authorities investigate and prosecute the matter.

The reasons this purported check on ICC power is illusory are threefold. First, it is the ICC, *not* the participant nation, that decides how this provision shall be interpreted and applied. This is similarly true of all provisions within the statute. Second, Article 17 provides the ICC an exception to a ratifying state’s exercise of jurisdiction in any case in which the court determines the national proceedings were not conducted “independently or impartially.” In a governmental system such as the United States, where the President is both the chief executive with coordinate law enforcement authority and Commander in Chief of all military forces, it is not hard to imagine unfriendly member states, however absurdly, claiming lack of independence and partiality in a U.S. decision that there is no basis to prosecute.

Finally, by placing within the ICC the sole jurisdiction of ultimately determining whether, for example, national leaders committed criminal violations by ordering certain military actions, the sovereign will of the citizens of the United States is both circumscribed and diminished. While sovereign nations have the authority to try noncitizens who have committed crimes against their citizens or on their territory, the United States has never recognized the right of an international organization to do so absent consent or a UN Security Council mandate. This court, however, claims the power to detain and try American citizens, even though our democratically elected representatives have not agreed to be bound by the statute.

With ratification, the ultimate accountability of national leaders to the citizenry would literally be transferred, at least with respect to matters before the body, to the ICC. Fundamentally, this transfer of sovereignty would be to an institution with values and interests greatly divergent from our own. When one considers that the ICC member states include Syria, Iran, Yemen, and Nigeria, all accused of directing extrajudicial killings abroad, ratification of the Rome Statute could constitute a significant surrender of American sovereignty.

### Erosion of Authority

Under the UN Charter, the Security Council has primary responsibility for maintaining international peace and security. But

Serbian Representative addresses ICC's Fifth Session of Assembly of the States Parties in November 2006



the Rome Statute removes this existing system of checks and balances and places enormous unchecked power and authority in the hands of ICC prosecutors and judges. The Rome Statute has created a self-initiating prosecutor, answerable to no state or institution other than the court itself.

During the negotiations in Rome, U.S. representatives opined that placing this kind of unchecked power in the hands of prosecutors would lead both to controversy and politicized prosecutions.<sup>5</sup> As an alternative, we urged that the Security Council should maintain its responsibility to check any possible excesses of the ICC prosecutor. This request was denied.

Equally significant, the statute creates a yet to be defined crime of “aggression” and authorizes the court to decide when and if it has occurred and permits its prosecutors to investigate and prosecute this undefined crime. This provision was approved over U.S. objection despite the fact that the UN Charter empowers only the Security Council to decide when a state has committed an act of aggression.

From an American perspective, the inherent right of self-defense, memorialized in Article 51 of the Charter, could also be diminished by the current court structure absent the checks and balances of Security Council oversight. With ICC prosecutors and judges presuming to sit in judgment of actions of nonmember states, the court could have a chilling effect on the willingness of states to project power in defense of their moral and security interests. As observed in Kosovo, Afghanistan, and Iraq, the principled projection of force by the world’s democracies is critical to protecting human rights, stopping genocide, and changing regimes. By placing U.S. officials, and our men and women in uniform, at risk of politicized prosecutions, the ICC could complicate U.S. military cooperation with friends and allies<sup>6</sup> who now have a treaty obligation to hand over American nationals to the court, even over U.S. objections, unless an Article 98 agreement is in place.

### Addressing and Countering Flaws

Despite voting against the Rome Statute (Treaty) in 1998, for the reasons outlined above, the United States remained committed and engaged and continued to work to shape the court and to seek the necessary safeguards that would permit ratification. U.S. officials from the Departments of State and Defense urged, without success, changes to ensure effective oversight and prevent politicization. Despite this frustration, U.S. experts partici-

pated in the preparatory conferences and took a leadership role in drafting the elements of offenses and the procedures necessary for court operation.

On December 2000, over the objections of many,<sup>7</sup> President Bill Clinton signed the Rome Treaty on the International Criminal Court. The President nevertheless made clear that the United States was not abandoning its concerns about the treaty:

*In particular, we are concerned that when the Court comes into existence, it will not only exercise authority over personnel of states that have ratified the Treaty, but also claim jurisdiction over personnel of states that have not. With signature, however, we will be in a posi-*

*tion to influence the evolution of the Court. Without signature, we will not.<sup>8</sup>*

Unfortunately, the United States was not able to further influence the evolution of the court. On April 11, 2002, the ICC was ratified by a sufficient number of countries (60) to bring it into force on July 1, 2002.

*from an American perspective, the inherent right of self-defense could be diminished by the current court structure absent Security Council oversight*



U.S. Air Force (Robert R. Hargreaves, Jr.)



UN (Tim McKulka)

On May 6, 2002, President George W. Bush directed that the following diplomatic note be sent by John R. Bolton, Under Secretary of State for Arms Control and International Security, to the Secretary-General of the United Nations, Kofi Annan:

*This is to inform you, in connection with the Rome Statute of the International Criminal Court adopted on July 17, 1998, that the United States does not intend to become a party to the treaty. Accordingly, the United States has no legal obligations arising from its signature on December 31, 2000. The United States requests that its intention not to become a party, as expressed in this letter, be reflected in the depository's status lists relating to this treaty.*

The dilemma posed for the UN in 2002 was the need for the continued leadership of the United States in the peace enforcement operations in Bosnia, a presence that America was prepared to abandon unless its forces were protected from the unfettered jurisdiction of the ICC. The United States is the only nation that can combine those elements of power required to sustain such large-scale operations: overhead intelligence-gathering, lift, logistic support, communications, planning, operational coordination, and close air support. In a compromise to prevent U.S. withdrawal, the Security Council, in July 2002, granted American troops conducting peace enforcement operations in Bosnia a renewable 1-year immunity from the jurisdiction of the ICC.

On August 3, 2002, President Bush signed into law the U.S. Service-members' Protection Act (ASPA).<sup>9</sup> This law, the final version of which was proposed by Henry Hyde (R-IL), is designed to protect American Servicemembers from the reach of the ICC. It provides for the withdrawal of U.S. military assistance from countries ratifying the ICC treaty and restricts U.S. participation in UN peacekeeping and peace enforcement operations unless the United States obtains immunity from prosecution before the court. These provisions can be, and have been, waived by the President on "national interest" grounds. In addition, the law allows the United States to assist international efforts to bring to justice those accused of war crimes, crimes against humanity, or genocide.<sup>10</sup> More importantly, the provisions precluding assistance to those nations that have ratified the ICC treaty do not apply if the ratifying nation has negotiated an Article 98 Agreement with the

United States. At present, 104 nations have concluded agreements, with 97 currently in force.

At the same time, the United States initiated negotiations to secure Article 98<sup>11</sup> Agreements with all nations for whom it provided foreign assistance as a condition for that assistance to continue. These bilateral agreements likewise provide assurance that U.S. forces will not be subjected to ICC jurisdiction when the United States is operating with forces from these nations in UN peacekeeping or peace enforcement operations. These agreements have largely permitted Washington to continue its support for UN operations and its unique role and responsibility in helping to preserve international peace and security. It is important to remember that at any given time, U.S. forces are located in roughly 100 nations assisting in peacekeeping and humanitarian operations.

### Reflections

The ICC represents a step forward in the evolution of a justice process addressing more than national interests and prerogatives. But a great deal more remains to be done before the United States should ratify the Rome Statute. Court jurisdiction over U.S. personnel should be permitted only after U.S. ratification of the treaty. The United States should continue to press for changes to the court's statute authorizing a trial by one's peers, a limit on the evidence allowed to direct evidence and not hearsay, the strict adherence to a non-double jeopardy standard, and a willingness to consider an oversight mechanism in the Security Council to preclude politicized prosecutions (as occurred in Bosnia when NATO leaders were charged in the ICTFY).

Despite the ICC's limitations, the United States has optimized its benefits among other participants in UN peacekeeping and peace enforcement operations through the careful management of foreign assistance as directed in the ASPA legislation. Through negotiation of Article 98 Agreements with all those states desiring to continue such aid and/or the continued participation of the United States in UN-sponsored operations, the Nation has ensured that its Soldiers and Sailors serving abroad will enjoy the same legal protections as those serving in garrison at Fort Bragg or Camp Lejeune.

There is no question that a properly constituted and structured International Criminal Court would make a profound contribution in deterring egregious human rights abuses worldwide. Unfortunately, the current

structure represented by the ICC is in direct conflict with certain of the constitutional protections guaranteed to our military personnel and civilians serving at the behest of our nation on foreign soil or directing activities on foreign territory from the United States. While American interests are not served by ratification at this time, this nation remains committed to promoting the rule of law and assisting in the successful prosecution of violators of humanitarian law. **JFQ**

### NOTES

<sup>1</sup> See generally Roger S. Clark and Madeleine Sann, eds., *The Prosecution of International War Crimes: A Critical Study of the International Tribunal for the Former Yugoslavia* (Piscataway, NJ: Transaction Publishers, 1996).

<sup>2</sup> See *Ex Parte Milligan*, 71 U.S. (4 Wall.) 2 (1866), for the premise that courts not properly established under the Constitution "can exercise no part of the judicial power of the country."

<sup>3</sup> See, for example, *United States v. Pascasco*, 37 M.J. 1012, rev. den. 45 M.J. 6 (1993). Under U.S.C. 3161, a Federal prosecutor must indict within 30 days of arrest and bring the defendant to trial within 70 days of indictment.

<sup>4</sup> 524 U.S. 666 (1998).

<sup>5</sup> The NATO experience in Bosnia under a similar court structure reflects the requirement for such oversight.

<sup>6</sup> There are 105 states that have ratified the Rome Statute, including most NATO nations.

<sup>7</sup> Most notably Senator Jesse Helms (R-NC) of the Senate Foreign Relations Committee and Chairman Henry Hyde (R-IL) of the House International Relations Committee.

<sup>8</sup> Statement of President Bill Clinton, "Signature of the International Criminal Court Treaty," The White House (Camp David), December 31, 2000.

<sup>9</sup> Public Law 107-206 (2006); 22 U.S.C. 7401-7433 (2003). (The earlier version was named the American Service-members' Protection Act, hence ASPA.)

<sup>10</sup> The author served as Deputy Assistant Secretary of State for Regional, Global, and Functional Affairs in the Bureau of Legislative Affairs during this period and shepherded this legislation through the Congress.

<sup>11</sup> Article 98 of the Rome Statute provides for bilateral agreements in which protections between participating nations for their individual forces in United Nations operations, to include immunity from referral to the International Criminal Court, can be previously negotiated.

# An Interview with Victor E. Renuart, Jr.

**JFQ:** A recent RAND Corporation study called for carving out 9,000 Army National Guard Soldiers to form 10 homeland security task forces, including training and equipping, ahead of the next major natural disaster or domestic terrorist attack. Although multiple command and control structures complicated the military response to Hurricane Katrina, how differently are we structured now to meet the next crisis?

**General Renuart:** Using last year's hurricane season as a good example, the Secretary of Defense signed an execute order, which authorizes me to have a force available so that we could respond leading up to, and in response to, a hurricane that might occur along—I started to say the gulf, but really any of the states that are affected. That, interestingly, gives me about 8,200 troops and a variety of capabilities that I can have divided into what we call three tiers, some that would do preliminary work with an affected state, some that would do an immediate assessment process after landfall, and then a group of forces to help in recovery. I can use that force anywhere in the country; it's available today. Forces are identified, but they are not sitting in their barracks waiting for me to call. As we see a storm begin to develop, I increase their readiness, their alert posture, such that should they be required—and we exercised a portion of these during the preparation for Hurricane Dean in Texas—I can move them into place.

Different from the RAND study, I believe this gives maximum flexibility. The RAND study, unfortunately, was not aware of or informed by some of the processes we had already put in place at NORTHCOM [U.S. Northern Command] since Katrina; it was also not informed by some of the relationships that we've built with the National Guard in the states and the National Guard Bureau since Katrina. And to a degree, the study did not acknowledge what has become one of NORTHCOM's principal roles: to study the gaps between what a state

and the National Guard Bureau, through its emergency management compacts, can provide in the event of a disaster, and where the Federal Government, in terms of the military, may be asked to provide support.

We've done a lot of that work now in our 10 FEMA [Federal Emergency Management Agency] regions, and we have defense coordinating officers assigned to each. They work closely with the FEMA region director as well as with us and the Department of Homeland Security, and we've built a pretty good matrix of what's there and what's needed. Our role, as we see a potential natural disaster coming, is to anticipate the places we think landfall might occur and to identify the gaps in that state or those states and then begin to posture support.

A bit of a long answer to a short question, but we proved that—during the preparations for Hurricane Dean, for example, which fortunately went to the south—we had teams in place in Texas well before landfall to begin to evacuate critical care patients, should that have been required. So that capability was already there on the ground *before* the potential for landfall. It's that kind of interaction and collaboration with the Federal agencies as well as understanding and having a relationship with the states that has brought us a long way and eliminated the need for the kind of capability that the RAND study called for.

**JFQ:** *There are Civil Support Teams [CSTs] in almost every state and territory, and their specific mission is to quickly respond to a WMD [weapons of mass destruction] event, assess the situation, and request follow-on assets. Seventeen chemical, biological, radiological, nuclear, or high-yield explosive enhanced response force packages [CERFPs] were to be certified by the end of 2007. Could you address your ability to respond to multiple near-simultaneous attacks on U.S. soil involving weapons of mass destruction?*



General Victor E. Renuart, Jr., USAF, is Commander of North American Aerospace Defense Command and U.S. Northern Command.



**General Renuart:** First, the CSTs do provide that quick look, first response, sort of "how big is the boom" assessment. They do have a limited ability to do some analytical work and certainly to help in consequence management to a degree, but mostly in the category of defining the size of the problem. The 17 CERFPs provide a more robust capability to come in and begin to assist the state in the consequence management portion of that. And for many events, that may be enough. If it is a chemical spill or an explosion at a chemical production facility that is relatively limited, those capabilities can and should be sufficient. In the event that we have a catastrophic event, or in the event that we have multiple events, albeit each of them may be slightly smaller, we need to have a capability to move a fairly robust response force into place that can certainly assist in the consequence management piece, can assist in the medical response, can assist with some engineering capability to help mitigate the site, and begin to isolate it from the general population as best you can.

Today, we have notionally filled one of these forces. We call it the CBRNE Consequence Management Response Force, or CCMERF. We have notional sourcing to fill

Col David H. Gurney, USMC (Ret.), and Dr. Jeffrey D. Smotherman of Joint Force Quarterly interviewed General Renuart at his Pentagon liaison office.

one of those. We do not have sourcing to fill the other two forces that we've been tasked to build, and as a result, multiple, near-simultaneous attacks today would be a challenge; we don't have the size of force necessary. The Department of Defense has made a commitment to build those, and so we hope that through fiscal 2008, we'll begin to see the funding and the identification of forces so we can do that. The key to this is that these forces cannot be on a 2-week recall. They have to be accessible because if the event occurs today, the American public will expect a response tomorrow. And so, these are forces that have unique skills, they have to be trained, they have to be mobile enough so that we can get them to the site, and they have to be ready enough to move on a relatively short notice so that they can come in to fill the void that will come from CST to CERFP to something larger. I think we're on a good track to have all the forces certified by the January 1 time period.

**JFQ:** *You recently commented that you enjoy success coordinating and cooperating with interagency partners. What advice can you offer to commanders and staff officers to achieve similar success?*

**General Renuart:** The last place in the world to make a new friend is at the scene of a disaster. You have to build a relationship over time. You need to plan together for the events that you may have to practice. And so my first recommendation is to reach out to those other agencies that you may have to deal with. You want to understand how *they* view the world, what *their* culture is. You need to understand what capabilities they bring. By the way, they need to understand what capabilities you bring, so it's a two-way discussion. My experience has been, whether it's building a coalition of 70 nations during OEF [Operation Enduring Freedom], or a coalition of 45 agencies at NORTHCOM today, everyone needs to feel as if they are a partner. Each will bring a different capability, some large, some small, but each has to feel like they are integrated into the planning as well as the execution. And so, if you don't make the first move, if the Defense Department doesn't say, "Let us be part of your team," or "Come be part of our team," then it's likely that it won't happen because, often, we're seen as kind of the big dog in the pack, and that can be intimidating to smaller agencies, so we have to make the first move.

**JFQ:** *One of NATO's [North Atlantic Treaty Organization's] successes has been that even small countries benefit from membership, each contributing proportionally (for example, Iceland had no offensive military capability but contributed access for NATO bases). Why does NORAD [North American Aerospace Defense Command] continue to be a U.S.-Canadian command rather than expanding to incorporate Mexico and other hemispheric nations? Wouldn't such an expansion serve the interests of all?*

**General Renuart:** Having had a good deal of experience in both NATO and now in NORAD, and in building coalitions for both OEF and OIF [Operation Iraqi Freedom], I see the real value in a large coalition of friends committed to the same purpose. NORAD, however, was a binational command formed during the early days of the Cold War to protect the air sovereignty of the United States and Canada. At that time, Mexico wasn't included in the Cold War threat that we saw. In today's world, we continue to see a unique relationship with the United States and Canada, not just in the air domain, but now in the maritime domain. The nature of the terrorist threat focuses on the West, and so we certainly have to have a collaborative relationship with our European friends. That works very well through the NATO structure.

But there also is an imperative that we have a close working relationship with nations in our hemisphere to defeat terrorism. In that role, Mexico *does* have an important part to play. We do have a great relationship, improving every day, with the military in Mexico. The government-to-government relationship is strong, and we're seeing more opportunities to collaborate and to share information with the Mexicans. Through this sharing, they can better view threats to their nation, with counternarcotics as the principal threat. But they are also supportive of the United States and realize that in any avenue through which illicit traffic occurs, the traffickers don't care whether it's drugs or people or terrorism. These traffickers are looking to make money by facilitating flow through their system. So the Mexicans have been very helpful to ensure that we get any information that might indicate a terrorist movement. Fortunately, we've not seen that yet, but I have no doubt that people are trying.

So there is a relationship among the three nations as it relates to illicit trade and trafficking. I think we will continue to work with Mexico on a variety of mutual topics.

Canada has also reached out to the government of Mexico, the militaries have reached out to each other, and they too are collaborating on a variety of common areas, the maritime domain being the principal one. So I think there's room for us to continue those relationships. I'm not sure that we're at a point where we need to change what NORAD does; I think building this coalition of partners for specific topics is really the way we will move forward, at least in the near term.

**JFQ:** *JTF [Joint Task Force]-NORTH seems to have a much broader mission than the counterdrug mission of its predecessor, JTF-6. Please speak to the challenges facing and successes of JTF-NORTH.*

**General Renuart:** JTF-NORTH is a great example of an economy of force effort, if you will. It's a small joint task force with specific experts allowing them not only to support the counternarcotics mission along the border but also to monitor the flow of illegal aliens. There is also an implied task: they keep their ear to the ground for the potential movement of terrorist entities through that same system. They have been very successful in working with the border and customs folks along the northern border on a couple of exercises. So we see their focus initially on the southern border area, but with applicability along our northern border as well, and we think that's a very good growth area for JTF-NORTH. How we shape and structure them for the future, we're still working on that.

**JFQ:** *What is unique to your command and the AOR [area of responsibility] that senior JPME [joint professional military education] professionals should know about? What are some of the challenges and initiatives that are different from other regional combatant commands?*

**General Renuart:** The first and most important challenge and difference is that our AOR is our homeland, and so we focus every day to ensure that those JPME students have a safe place to go to school. While a little tongue in cheek, that really is a very solemn task. We have, in many ways, a broader interagency connection to the rest of our government than our other combatant commands may. We also are limited constitutionally in a way that none of the other combatant commands are—well, that's not true—that very few of the other combatant commands are limited. Certainly

STRATCOM [U.S. Strategic Command] has some limitations that they have to be very careful of, similar to ours in terms of the limitations of the use of the U.S. military within the boundaries of our nation. We also have a challenge in that our interagency activity isn't just with elements of government, but we work with private industry, we work with each of the 54 states and territories, because their roles and responsibilities differ from state to state, and yet our ability to respond, whether it's to a bridge collapse in Minnesota or preparation for a hurricane in Texas, or preparation for the United Nations General Assembly in New York—each of those are different, and yet NORTHCOM brings a capability to bear in each of those. And so the diversity, the very active interagency process, and the state engagement program are all unique to NORTHCOM and provide for a pretty dynamic environment.

**JFQ:** *You have come out publicly as being an advocate of the National Guard. What actions have you taken in that role? How have you been engaged with state and local authorities?*

**General Renuart:** First, my goal was to get to every state in my first year. I'm failing in that somewhat, but we have made a lot of progress. We've been out now to 18 states, I've seen 16 state Governors, I've seen 4 Lieutenant Governors, I've seen the emergency management directors in every one of those states, I've seen the adjutants general in every one of those states. I've spoken to the National Guard Association of the United States convention in San Juan, with all of the adjutants general, and with nearly 3,000 members of the Guard from all over the country. I've accepted an invitation to speak to the National Governors Association. So our outreach program is something that is important to us, it is something that is critical to NORTHCOM's success in that we must have a relationship with the states and the adjutants general all across our country.

We've worked hard with the National Guard Bureau to collaborate on those equipment shortfalls that are unique to the non-Federal mission. In other words, the Army and the Air Force are tasked to, and will budget for, the traditional equipping of the Guard for what I'll call their wartime missions—deployments to Iraq, Afghanistan, Kosovo, air deployments all over the world, the global airlift transportation system. But there are some unique

capabilities that Texas might need, or Maine might need, or Montana might need, that are over and above the traditional Department of the Army or Air Force funding line or table of allowance. Our job is to work with the states in cooperation with FEMA and the Department of Homeland Security to say, "What is required to deal with this event in this state? What does the Federal civilian response entity bring, and is there anything left that there's no other place to go for than DOD?" Whatever those are, those are the things that we put into our commanders integrated priority list, we take it and advocate for the JROC [Joint Requirements Oversight Council], we advocate for funding as we go through our normal POM [Program Objective Memorandum] cycles. We've got something called a gap analysis ongoing with our 10 FEMA regions, which tells me what capabilities the Federal and civilian responders don't have, so I can begin to look at what we might need to support a particular state Guard with. We'll continue to work through that as we go through the fiscal 2010 POM cycle in the coming spring.

**JFQ:** *USNORTHCOM just celebrated a 5-year anniversary. How has defense support of civilian authorities evolved over that time?*

**General Renuart:** First, the fact that we are here occurred because of a lack of focused DOD homeland defense capability. This lack has been underlined since Hurricane Katrina by the imperative from the people of our country to ensure that we don't have a state left without the capacity to respond to the people. Our job is not to come in and take over an operation in a state. Our job is to ensure that as the Governor and the adjutant general see the need, we are on the doorstep with the right kinds of capabilities for them to continue their response, or to increase the size of their response, or to sustain it over time in an area where it might be a long recovery process. So states should not feel threatened by the support of the Department of Defense. The Department of Defense role is to make sure that the things the Governors need are ready when they need them. The people of this country demand that their elected officials take care of them, help them respond when disaster strikes. It shouldn't matter whether it's Guard or Reserve or Active duty; we owe those same people—those are our families. That's what's unique about NORTHCOM—it's our homeland, our hometowns that we are helping to protect. So

we should not have a circumstance where Governors feel that they have nowhere to turn.

Our role at NORTHCOM is to ensure that with every event, we are looking at what kinds of things we might make available to help. The key is support—not to come in and command, but to support. I think we've made a lot of progress in that regard, and I think we're building the relationship across the country with Governors, Lieutenant Governors, adjutants general, emergency management directors—that's our mission. And I've not encountered anyone who has an objection to that. We've had a great response from states all over that have said, "We really need your help. We really do need some assistance. And so the fact that you're preparing to put it in place almost before we ask is comforting. Maybe we won't have to ask, and that's okay. But maybe we do, and if we do, we know that it will be ready." And that's our real mission.

**JFQ:** *Thank you, sir.*

U.S. Army (Lee Kika)



Gen Renuart speaks to National Guardsmen at Muscatatuck Urban Training area during joint military/civilian emergency management exercise Vigilant Guard



FEMA Federal Incident Response Support Team vehicle loads onto U.S. Coast Guard C-130J for transport to Puerto Rico after Hurricane Dean

# Supporting Homeland

**A**t this writing, a tropical storm floods south Texas. A major hurricane churns west across the Caribbean with a potential landfall along the Texas coast. Wildfires in the Western United States consume nearly 75,000 acres. U.S. Navy divers assist in the recovery of victims of a bridge collapse in Minneapolis. The space shuttle is aloft with a worrisome gouge in its protective tiles. Russian long-range bombers have resumed patrols that in the past have probed American and Canadian air defense identification zones. Vessels of interest approach American ports with suspicious persons on board.

Each of these events could require the North American Aerospace Defense Command (NORAD) or U.S. Northern Command (USNORTHCOM) to respond

to defend the homeland or support U.S. civil authorities in their response to various threats. These are the mission essential tasks of the dual commands at Peterson Air Force Base in Colorado Springs. Many organizations see themselves as unique, and we are no different. Our claim to that status flows from our area of responsibility for USNORTHCOM and our area of operations for NORAD: the North American continent.

## Mutually Beneficial Collaboration

The events of September 11, 2001, revealed gaps and seams across government that both contributed to the success of the attacks and hampered an effective response to the consequences. One result was that the traditional NORAD focus on the external threat changed radically to address the need

to look inward. Another was the creation of the first new geographic combatant command for the American homeland since George Washington's Continental Army. In 2002, the National Security Advisor and Secretary of Defense directed that each combatant command establish a Joint Interagency Coordination Group (JIACG) in order to enhance interdepartmental coordination.<sup>1</sup>

As USNORTHCOM became a reality, the plankholders saw that the JIACG concept could be invaluable in building and maintaining relationships with Federal departments and agencies as well as state and local governments, nongovernmental organizations, and the private sector, all key players in homeland defense and security. The bicommand leadership established the Interagency Coordination Directorate as a primary staff directorate, "dual-hatted" to both NORAD and USNORTHCOM, to facilitate the interagency coordination process across the commands.

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James M. Castle is Deputy Director of Interagency Coordination for North American Aerospace Defense Command and U.S. Northern Command at Peterson Air Force Base, Colorado.

As 9/11 was instrumental to the establishment of USNORTHCOM and its interagency structure, Hurricane Katrina provided impetus to move beyond interagency communication and coordination to mutually beneficial collaboration. The hurricane's aftermath demonstrated that no single state or Federal agency has the resources to respond to a catastrophic event, whether natural or manmade. Furthermore, while there have been significant areas for improvement, the Title 10 military response coordinated by USNORTHCOM to support the national effort demonstrated processes and capabilities that the other departments and agencies recognized as valuable. Doors opened across government—to include non-Federal agencies—to embrace closer integration of plans and operations. Our challenge has been to pursue integration within the unique strategic environment of homeland security.

We at NORAD and USNORTHCOM must become adept at integrating our efforts with those of our mission partners. The USNORTHCOM commander's *Vision 2020* states that supporting and enabling other agencies, working toward common objec-

governments serve their constituents through constitutions that define the responsibilities of their respective leaders. Governors often cite Article 10 of the Constitution: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." While blurred by time and precedent, this article still bars the Federal Government from many direct actions within the domestic arena. There is shared state and Federal accountability for the defense and security of our homeland. Thus, USNORTHCOM must work in concert with states and their Governors to ensure integrated planning and response across the homeland defense, homeland security, and civil support mission spectrum.

Unique among geographical combatant commands, USNORTHCOM must plan and respond collaboratively with over 54 sovereign entities—the states, territories, and tribal nations within its area of responsibility, in addition to our neighbors, Canada and Mexico. The Department of Homeland Security (DHS) National Response Plan, published in 2005, provides the structure and mecha-

nisms for national level policy and operational coordination for domestic incident management. While not a plan in the *military* sense, it describes the structure and processes comprising a national approach to domestic incident management designed to integrate efforts and resources. It assigns departmental responsibilities for 15 emergency support functions as coordinating, primary, or supporting agencies. DOD is a supporting agency to all 15 emergency support functions, and USNORTHCOM has responsibility within DOD for coordinating and controlling Title 10 forces, which are committed to Federal support. The key principle in this environment is that DOD and USNORTHCOM are almost always in support of another Federal department or agency to provide defense support of civil authorities.

The 2006 QDR defined eight roadmaps to guide DOD programs from 2008 to 2013. One that particularly impacts USNORTHCOM's interagency engagement is the Building Partnership Capacity (BPC) Roadmap, which places a high priority on building security capabilities into our international and domestic partners to mitigate the likelihood of commitment of DOD resources and capabilities to support them. Our principal international BPC partner is Mexico, whose capabilities to interdict transnational threats before they reach our common border constitute a vital national interest. Domestically, contributing to the response capacity

# Partners

By JAMES M. CASTLE

tives, and building the capacity of partners are indispensable elements in this effort. Unity of effort requires that strategies, plans, operations, and future technologies be closely coordinated with partners. We must work as part of a unified interagency team to address threats and to support other agencies in complex interagency operations.

In addition to Department of Defense (DOD) mission guidance to the commands (such as the Unified Command Plan and Joint Strategic Capabilities Plan), three key documents define our interagency engagement and relationships with Federal, state, tribal, nongovernmental, and private sector mission partners. First and foremost is the U.S. Constitution; second is the National Response Plan; and last is the Building Partnership Capacity Roadmap of the 2006 Quadrennial Defense Review (QDR).

America's strategies for providing homeland defense and civil support are founded on constitutional principles. State and Federal



U.S. Army (Damon A. Dickinson)

Soldiers from Fort Lewis help National Interagency Fire Center fight wildfires in Washington

of DHS and the states directly mitigates the impacts of manmade or natural disasters on citizens at home.

### What We Do

The commander's JIACG constitutes the vital heart of interagency coordination for NORAD and USNORTHCOM. It is comprised of representatives from 40-plus agencies:

- DOD and others<sup>2</sup>
- contingency representatives for planning, exercises, and crises
- contacts throughout the national interagency community
- military liaison officers from other combatant commands and subordinate joint task forces and Service components.

The USNORTHCOM Interagency Coordination Directorate provides the "homeroom" for the JIACG and integrates the coordination of the command's staff with the departments and agencies represented.<sup>3</sup> The mission essential task of the JIACG is to provide the commander and staff with the national context, both governmental and nongovernmental, of a given scenario so he can apply the military resources and capabilities at his disposal in the most appropriate and effective manner. The JIACG performs planning, operations, training and education, and engagement activities to accomplish that mission essential task.

**Planning.** All of the contingency plans for NORAD and USNORTHCOM execution of missions include an Annex V (Interagency), which provides a single source reference for the combatant command to request interagency support or provide support to non-DOD agencies; it also lays the groundwork for coordinating with U.S. Government civilian agencies, international civilian organizations, and nongovernmental organizations. Understanding our partners' capabilities, limitations, availability, and authorities that govern military and civilian activities in the area of operations is accomplished during the deliberate planning process. Our agency representatives ensure that plans are consistent and integrated with the plans, processes, and priorities of other organizations, contributing to a synergy of national effort. Furthermore, USNORTHCOM has furnished planners to Federal and state partners both to provide an understanding of

the military planning process and to ensure that expected military support is consistent with DOD capabilities and processes. In preparation for the 2006 hurricane season, for example, USNORTHCOM planners assisted the Federal Emergency Management Agency (FEMA) Gulf Coast Recovery Office, as well as state emergency managers in gulf coast states, with plans for evacuation and search and rescue operations.

A key effort begun in preparation for the 2006 hurricane season was the development of pre-scripted mission assignments (PSMAs). Under the National Response Plan, interdepartmental requests for resources and capabilities require a formal request procedure that details the "five Ws" of the support needed, including estimated costs. Once approved by the Secretary of Defense, these requests become mission assignments from the lead agency to the supporting agency. The response to Hurricane Katrina revealed that the back-and-forth communications (to clearly define the requested capability) were burdensome and time-consuming. During the winter and spring of 2006, USNORTHCOM collaborated with FEMA and the Joint Direc-

tor of Military Support (JDOMS) on the Joint Staff to write 26 PSMAs for commonly needed DOD assets based on FEMA's top priorities. Some of these include command and control nodes, aviation, logistics, and health support assets. Although each request must still be approved by the Secretary of Defense, the resource information required has been validated at every level to expedite the request process. It also readily converts the approved mission assignment into a DOD request for forces for DOD resourcing.

Development of command plans typically involves establishment of interagency working groups that convene as needed to coordinate and integrate the plans with those of our partners. Some, such as the Law Enforcement Working Group and the State Engagement Working Group, meet regularly to review the status of development of multiple plans and update ongoing engagement activities. Others, such as the Pandemic Influenza or PSMA Working Groups, have been focused on a specific plan or task.

**Operations.** Day-to-day, the tip of the spear for interagency operations is the interagency desk at the NORAD and

*contributing to the response capacity of DHS and the states directly mitigates the impacts of manmade or natural disasters on citizens at home*



Member of Mobile Diving and Salvage Unit from Little Creek, Virginia, at scene of collapse of I-35 Bridge in Minneapolis

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USNORTHCOM Command Center. This desk monitors activities of the DHS National Operations Center and those of Federal partners in order to maintain situational awareness of incidents that could have implications for NORAD and USNORTHCOM. The desk has direct access to our three tiers of interagency representatives in case additional information is needed.

If an incident requires a crisis response, the command can move quickly through various tailored venues to a 24/7 adaptive headquarters organization consisting of the Command Center, Future Operations Center (FOC), and Future Plans Center (FPC) supported by three operations support groups: the Joint Support Group (JSG), Information Support Group (ISG), and Interagency Coordination Group (ICG). The ICG stands up in a conference room, preconfigured with 24 workstations and secure video teleconference capability. The Interagency Coordination Directorate provides a DOD watch crew, and representatives from departments and agencies whose expertise is needed for that particular scenario fill the remaining workstations.

Additionally, we send interagency coordination officers to the FOC and FPC and receive a JSG officer. The ICG contributes a running estimate in the form of a JIACG assessment, which is presented at least daily to the commander and staff during the command battle rhythm briefings. The

JIACG assessment identifies who is the primary Federal agency, what the anticipated implications for DOD support may be, and what all of our interagency partners are contributing for that particular reporting period. It makes sense of the volumes of interagency information flowing in from myriad sources and provides the “So what?” to the commander. During Hurricane Katrina, the ICG operated around the clock for 6 weeks.

*Training and Education.* While existing military programs train Servicemembers for roles in traditional combatant commands, they do not prepare them for the unique requirements of homeland defense and civil support missions in the USNORTHCOM area of responsibility. Specific skills and knowledge must be acquired, and that is usually accomplished after a Servicemember is assigned to the command. Staff personnel require specific technical expertise in areas such as agroterrorism; hurricane and earthquake response operations; chemical, biological, radiological, nuclear, and high yield explosives response operations; law enforcement coordination; and interagency information-sharing. To meet these needs, USNORTHCOM leverages both DOD and non-DOD training venues to prepare personnel to deal with the challenges, processes, terminology, and roles involved in interagency coordination.

Using the command’s online Learning Management System, personnel can enroll

in specific online and resident interagency courses (such as FEMA’s Emergency Management Institute) to gain knowledge of existing interagency programs, systems, and incident-specific planning and operations. These courses also provide an interagency perspective instead of a DOD perspective. Personnel then enroll in the online Joint Knowledge Development and Distribution Capability courses. USNORTHCOM also presents a combination online and resident course focusing on defense support of civil authorities. This course brings together an interagency audience, ensuring that participants gain a broader understanding of interagency coordination.

Training must be tested to determine readiness to execute operational missions, and our conduct of and participation in interagency exercises are key to that assessment. We must create a realistic interagency environment that replicates national level agencies, regional Federal agencies, state and local authorities, and the private sector at all

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*if an incident requires a crisis response, the command can move quickly through various tailored venues to a 24/7 adaptive headquarters organization*

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Space shuttle *Endeavour* arrives at launch pad



NASA (George Shelton)

levels. In addition to the complexities of the U.S. interagency environment, we strive to replicate the international environment with Canada and Mexico.

USNORTHCOM, in cooperation with DHS, has been involved in developing the National Exercise Program (NEP), which provides guidance for the U.S. Government to implement a cohesive exercise program. It directs agency participation in National Level Exercises (NLEs) and uses a tiered approach. Tier 1 exercises require actual agency leader and staff participation, including department secretaries or their deputies and agency operations centers. Tier 2 exercises require multi-agency contributions to a National Simulation Cell, which replicates Federal agencies at both the national and regional levels with agency representatives who role-play for their organizations. Both Tier 1 and 2 NLEs are intended to focus on national level strategic issues.

Prior to formal NEP approval, DHS, NORAD, and USNORTHCOM coordinated

and conducted two Tier 2 exercises, Vigilant Shield 07 (VS-07) and Ardent Sentry/Northern Edge 07 (AS/NE-07) under draft NEP guidelines. Canada also participated in both exercises. Vigilant Shield 08 and NLE 2-08 are the first two formal NLEs under the approved program. Both USNORTHCOM's Canadian counterpart, Canada Command, and Public Safety Canada intend to participate in these two NLEs. As stakeholders internalize the benefits of the National Exercise Program, DHS, NORAD, and USNORTHCOM will further refine planning and execution synchronization with its agency partners.

**Engagement.** Engagement with interagency mission partners is a core requirement for USNORTHCOM in order to integrate with them for a wide array of contingency plans. The first years of USNORTHCOM's existence focused on identifying critical partners in homeland defense and homeland security and engaging them to establish mutually beneficial relationships and interoperability. The establishment of the Department of Homeland Security in 2003 was a watershed event, giving a primary counterpart to DOD for homeland security. We have previously discussed the diverse representation from Federal partners on the USNORTHCOM staff, the direct result of these engagements. In recent years, we have operationalized

**U.S. Coastguardsman boards HMCS *Preserver* during exercise Frontier Sentinel, designed to help with U.S.-Canadian maritime interdiction**



U.S. Navy (Andrew McCord)

these relationships with increased integration of operations, plans, and exercises. While we continue to enhance these Federal relationships, the breadth of response across national and international agencies requires the development of similar relationships with states and the National Guard, private sector, the science and technology community, and Canada and Mexico.

### States

In the homeland, local first responders and emergency medical professionals will always be the first to arrive on the disaster scene. They may be augmented by nongovernmental organizations such as the local Red Cross chapter, state agencies, or, by the Governor's direction, the state's National Guard. If Federal resources, including DOD assets, are required, these generally augment the local and state emergency managers through a joint field office. Since USNORTHCOM will coordinate and control any Title 10 response, we must understand the capabilities and requirements of our state mission partners.

We must build strong, mutually beneficial, and trusting relationships with state partners to facilitate collaborative planning, ensure unity of effort in response, contribute to a common operating picture, ensure coordinated communication strategies, and build partner capacity through advocacy. The collaborative result is to prevent incidents, save lives, protect infrastructure, and promote resiliency.

Our state and National Guard engagement program pursues active and mutually beneficial relationships with the National Guard Bureau; with Governors and their homeland security advisors, emergency managers, and adjutants general; and with congressional delegations. We have made good progress working with separate state players, initially focusing on those with historic Federal response requirements such as the gulf coast hurricane states and Western wildfire states, but we recognize that it will take time to build relationships with all 54 states and territories. We have also engaged with several important umbrella associations, such as the National Governors Association and the National Emergency Management Association.

### National Guard

Short of federalization, the National Guard is our most important interagency

partner because of its key role in state response. The first military personnel to respond to an incident will almost always be National Guard Soldiers and Airmen. USNORTHCOM's relationship with the National Guard is critical to both homeland defense and civil support. Partnership with the Guard will ensure these organizations train as they fight—with unity of purpose and effort. USNORTHCOM must ensure Guard equities, capabilities, and sensitivities are accurately included in all NORAD and USNORTHCOM efforts and that Guardsmen assigned to the command are empowered to present the unique Guard point of view at every turn. A Senate caucus and the White House Katrina report recently called for more Guard representation at USNORTHCOM, a point reiterated strongly by the Commission on the Guard and Reserve.

### Private Sector

The Interagency Coordination Directorate is also leading USNORTHCOM's effort to make strides in private sector awareness. While the command is not chartered to deal directly with the private sector writ large, the command must work with its partners—particularly the DHS Office of Private Sector Initiatives—to understand how private sector

*the establishment of the Department of Homeland Security was a watershed event, giving a primary counterpart to DOD for homeland security*

plans and processes impact planning and operations in the USNORTHCOM area of responsibility. The private sector's ability to harness assets to apply to contingencies is unsurpassed and is often preferable to DOD action. To ensure unity of effort and facilitate efficiency and responsiveness, USNORTHCOM must understand how potential DOD support to civil authorities might dovetail with private sector plans. To accomplish that, we have engaged umbrella organizations such as the U.S. Chamber of Commerce, Business Executives in National Security, and others.

### Science and Technology Community

Given the complexities of interoperability and collaboration with our diverse

interagency partners, science and technology offer enabling solutions. USNORTHCOM maintains an ongoing engagement with several Federal agencies related to science and technology initiatives, with the Department of Energy National Laboratories and the Department of Homeland Security Science and Technology Office being two of the most prominent. These collaborations seek to develop or advance technological innovations that have multiagency applications.

Two examples of recent technology collaboration initiatives are tunnel detection and hyperspectral sensors. In the first, an interagency team consisting of NORAD and USNORTHCOM's Joint Task Force-North, DHS's Science and Technology Directorate, Immigration and Customs Enforcement, Customs and Border Protection, Army Corps of Engineers, and the National Geospatial-Intelligence Agency conducted baseline assessments in high probability locations for smuggler tunnels on the southwest border of the United States. The concept of operations called for using multiple scanning technologies to detect likely locations, fusing this information with intelligence from local law enforcement agencies, and then employing a surface penetrating technology to probe likely locations and insert systems to map the interior of the tunnels.

In another initiative, Joint Task Force-North teamed with the Civil Air Patrol, Army Strategic Command/Space and Missile Defense Command, private industry, U.S.

Forest Service, and local law enforcement agencies to conduct a test and evaluation of a low cost, unclassified, airborne hyperspectral sensor. This concept of operations called for employing advanced analysis methods and close collaboration with local law enforcement agencies to improve the capabilities in support of law enforcement.

### Mexico and Canada

Emergencies, disasters, and security have little respect for borders, so USNORTHCOM must have strong relationships with neighboring countries that share border responsibilities with the United States, Canada, and Mexico. USNORTHCOM continues to build on the longstanding Canadian partnership that produced NORAD almost 50 years ago and is broadening into other binational land- and maritime-based coordination to ensure security for both the Canadian and U.S. homelands. USNORTHCOM also promotes expanded relationships with Mexico, both in military and nonmilitary cooperation. The shared desire to provide civil protection

*USNORTHCOM must have strong relationships with neighboring countries that share border responsibilities with the United States, Canada, and Mexico*

and emergency response along our border with Mexico has allowed USNORTHCOM to participate with FEMA and Mexico's counterpart, *Dirección General de Protección Civil y Emergencias (Protección Civil)* and several other Federal partners to enhance cross-border coordination for emergency response.

The United States enjoys a longstanding Canadian-United States (CANUS) relationship through NORAD, and the CANUS Civil Assistance Plan (CAP) provides a thorough framework for mutual assistance across our common border. But this close relationship must be continuously updated as we collaboratively face new security threats. Several strategic and operational initiatives are worth mentioning. First, Canada Command provides a counterpart military command through which NORAD and USNORTHCOM can channel interagency coordination with Canadian civil agencies. Secondly, NORAD and USNORTHCOM have a full-time liaison officer at Canada Command, who has helped in getting information from Canadian civil and emergency preparedness agencies for inclusion in the NORAD and USNORTHCOM interagency training program. Additionally, some states and provinces are engaging in cross-border cooperation and incident planning, providing a foundation for Federal coordination by both countries.

USNORTHCOM is partnering with a number of Federal departments and agencies to develop a common interagency and intergovernmental approach to improve emergency preparedness and response planning and capabilities along the border with Mexico. An informal consortium has been established that, along with USNORTHCOM, includes representatives from FEMA, the U.S. Agency for International Development, and the U.S. Environmental Protection Agency. Working with and through the U.S. Embassy in Mexico, the consortium's plan is to work with appropriate Mexican government partners, both military and civilian, to develop a strategy for collaborating in emergency preparedness and response planning across our common border. The consortium has a primary goal of reinforcing the core competencies of the interagency community by synchronizing competing projects, timelines, and ownership both vertically and horizontally. It will focus on national, regional,



U.S. and Mexican naval officers discuss flight operations during combined training off Pacific Coast of Mexico

U.S. Navy (Gabe Puello)



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and state opportunities *simultaneously* with the goal to expand single agency events and make them multiagency efforts with USNORTHCOM in support. This initiative is on a fast track to produce an actionable interagency and intergovernmental implementation plan with the goal of initiating mutually supportive activities and exercises.

The cooperation and collaboration that USNORTHCOM has achieved with its interagency partners at home go a long way toward accomplishing the objectives set out in the QDR Building Partnership Capacity Roadmap and pave the way for cooperative interagency and intergovernmental activities with our Mexican neighbors.

### The Way Ahead

There is much more to do to integrate NORAD and USNORTHCOM with our interagency partners at home and with our neighbors. The goal is a more seamless environment in which there are no barriers to the free flow of information needed to protect the Nation and its citizens. We must move beyond mere communication, which is the exchange of information between two entities, and coordination, which synchronizes the plans and operations of separate entities. Our goal is a truly *collaborative* environment in which agencies develop and execute plans and operations, and processes and cultures become fused. Unity of effort then flows from a synthesis of operating concepts. Three key efforts define our immediate lines of operations toward that goal: information-sharing, advocacy and building partnership capacity, and organizational integration.

**Information-sharing.** The objective of information-sharing is a common operating picture in which all interagency partners share an understanding of a scenario. All partners must have access to the same facts and assumptions as they analyze emerging missions and a complete understanding of each other's operating concepts in execution. There are technological, organizational, and cultural challenges to achieving such an environment.

**Advocacy/Building Partnership Capacity.** The cooperation and collaboration achieved with our interagency partners at home pave the way for cooperative interagency and intergovernmental activities with neighbors. While much work is still needed, the successes to date and the plans on the table can only create

stronger bonds among Canada, Mexico, and the United States.

**Organizational Integration.** The culture of inclusion in development at USNORTHCOM headquarters must be institutionalized in its subordinate and component organizations. For example, the command's Army component headquarters is charged with conducting homeland defense and civil support, which includes regional defense coordination elements stationed within each of FEMA's 10 regional headquarters. Developing this new construct gives USNORTHCOM a historic opportunity to build domestic regional defense, security, and emergency relationships.

Through an inclusive, collaborative, mutually supportive culture, U.S. Northern Command can be the missing link that truly facilitates full-spectrum planning and response. Ultimately, only personal relationships and experience will allow these essential relationships to grow into a powerful force that will serve a deserving and demanding American public. **JFQ**

### NOTES

<sup>1</sup> Paul D. Wolfowitz, memorandum for the Assistant to the President and Deputy National Security Advisor, Subject: Joint Interagency Coordination Groups (JIACG) Assessment, August 19, 2003.

<sup>2</sup> Current DHS representatives include a senior DHS advisor and representatives from the Federal Emergency Management Agency, Transportation Security Administration, Customs and Border Protection, and the Coast Guard. Other agencies represented include Department of State, Federal Bureau of Investigation, Central Intelligence Agency, National Security Agency, Office of the Director of National Intelligence, Army Corps of Engineers, Geological Survey, Public Health Service, and others. Only three of them are paid for by DOD, an indication of the mutual value that these agencies derive from USNORTHCOM representation.

<sup>3</sup> The Interagency Coordination Directorate is currently authorized 6 joint, multicomponent military positions and 13 DOD civilians, plus 16 contractors. It is organized into four divisions: Operations and Training, Preparedness and Plans, Law Enforcement and Security, and Concepts and Technologies, plus a Domestic Initiatives Branch that works special topics for the director.



Gen Renuart observes airborne communications capabilities that joint services can provide to USNORTHCOM, Federal agencies, and local law enforcement agencies

USNORTHCOM (Gail Braymen)

# Creating Shared Situational Awareness



By STEWART SWAN

Stewart Swan supports the U.S. Northern Command Plans, Policy, and Strategy Directorate (J5)/Theater Security Cooperation as part of the Homeland Security and Defense Consortium Internship Program.

In January 2007, the Department of Defense (DOD) released its new information-sharing strategy, paving the way for ongoing innovation in efforts to promote and bolster information-sharing.<sup>1</sup> Awareness of the urgency of the information-sharing imperative has largely arisen from shortcomings made apparent by domestic incidents. Fittingly, the unique missions and areas of responsibility of the North American Aerospace Defense Command (NORAD) and U.S. Northern Command (USNORTHCOM) have created an exceptional testing ground for innovations on the information-sharing front. Specifically, the binational nature of NORAD, the combined headquarters of the two commands, and the defense support of civil authorities (DSCA)<sup>2</sup> role of USNORTHCOM create situations in which information-sharing is inherently vital to mission success.

NORAD and USNORTHCOM have approached the information-sharing challenge through aggressive communications, coordination, and engagement strategies that exist within and across the joint, multinational, and interagency domains. This article articulates the imperatives within NORAD and USNORTHCOM strategies, goals, and objectives; places these imperatives within a conceptualization of information-sharing as an integral component of force transformation and network-centric warfare; and discusses the work of the NORAD and USNORTHCOM Public Affairs, Interagency Coordination (IC), and Theater Security Cooperation (TSC) divisions in promoting information-sharing within and between the commands and with external partners.

A critical look at these initiatives should unearth ongoing lessons that will provide a fertile layer of knowledge upon which to base similar efforts throughout the other geographic



U.S. Air Force fighter enforces flight restriction zones over Cape Canaveral for NASA space shuttle launch

NORAD

and functional combatant commands, DOD, and the broader defense and security community. Ultimately, this serves as a direct contribution to one of the eight objectives laid out in the *National Security Strategy of the United States*: to transform America's national security institutions to meet the challenges and opportunities of the 21<sup>st</sup> century.

### Multidimensional Challenge

Both the 9/11 Commission Report and the Weapons of Mass Destruction Commission Report<sup>3</sup> have emphasized the need for information-sharing and specifically intelligence-sharing. Much effort has been directed at reorganization within the Intelligence Community, spurred by the Intelligence Reform and Terrorism Prevention Act of 2004<sup>4</sup> and Executive Order 13388 (Further Strengthening the Sharing of Terrorism Information to Protect Americans).<sup>5</sup> Within DOD, much of the emphasis has been on technological capabilities of networks and the Global Information Grid, while less consideration has been given to how organizational approaches to communication, coordination, and engagement may facilitate information-sharing. In short, great strides have been made toward access to information, but less has been done to ensure actual collaboration.

In December 2006, NORAD and USNORTHCOM issued a shared strategic guidance document to ensure unity of effort within and between them. The nature of this strategy sets a precedent for information-sharing that is heralded throughout the goals and objectives laid out for the two commands. The concept of teamwork is laced throughout the document and is prominently stated in the goal of NORAD to "be a model for international cooperation" and the goal of USNORTHCOM to "improve unity of effort with our interagency and international partners." NORAD, in fact, is a binational command with combined/joint U.S. and Canadian forces components. The commander, General Victor Renuart, USAF, also commands USNORTHCOM and oversees a largely combined headquarters staff, which further necessitates international cooperation as Canadian NORAD staff work alongside American NORAD and USNORTHCOM staff. Additionally, the Homeland Defense and DSCA roles

*strides have been made  
toward access to information,  
but less has been done to  
ensure actual collaboration*

of U.S. Northern Command necessitate strong coordination with a proliferation of civilian partners in a domestic arena that has traditionally been isolated from military responsibilities.

The imperative to share information at NORAD and USNORTHCOM fits squarely within the broader goals of force transformation and network-centric warfare. The four major tenets of network-centric warfare as elucidated by the Department of Defense are the following: a robustly networked force improves information-sharing; information-sharing improves the quality of information and shared situational awareness; shared situational awareness enables collaboration and self-synchronization and enhances sustainability and speed of command; and these, in turn, increase mission effectiveness. These tenets address efforts taken across all dimensions of the information environment conceived as a continuum ranging from physical to informational to cognitive.<sup>6</sup>

DOD efforts aimed at improving the Global Information Grid address the first tenet primarily within the physical terminus of the information environment, but additional attention is needed for enhancing the continuum from information access to collaboration. At NORAD and USNORTHCOM, this begins with outreach efforts aimed at the public and civilian stakeholders both within the domestic environment and abroad. This lays the foundation on which formal information-sharing relationships and collaborative processes can be erected with civilian and military stakeholders.

The objective of all these efforts is to achieve shared situational awareness as indicated in the tenets of network-centric warfare and information superiority.<sup>7</sup> The Joint Operations Concepts document states, "The power of superiority in the information domain mandates that the United States fight for it as a first priority even before hostilities begin."<sup>8</sup> This means taking steps to enhance information-sharing across all dimensions, culminating in shared situational awareness within the cognitive component of this conceptualization of information.

### Communication as Force Multiplier

The first step on the path to shared situational awareness is public communication, which lays the groundwork for building specific working relationships with collaborative partners. The delicate nature of civil-military interaction necessitates a different approach than that taken by geographic combatant commands whose areas of responsibility encompass



Secretary of Transportation Mary E. Peters tours site of I-35 bridge collapse over Mississippi River with defense coordinating officer

multiple foreign nations and limited opportunity for interaction with the U.S. citizenry. The constraints of operating on domestic soil amidst American citizens, as well as the challenges of cooperation with international allies with whom we enjoy longstanding “special relationships,” necessitate a robust approach to public affairs to get the message out. Myriad civilian stakeholders must be informed of the NORAD and USNORTHCOM missions so that relationships can be established and the process of information-sharing initiated, cultivated, and continually improved.

At the core of this mission is the responsibility to implement DOD Principles of Public Information, which maintain that information shall be made “fully and readily available” and cite the need for planning and coordination in order to “expedite the flow of information to the public.”<sup>9</sup> Furthermore, doctrine dictates that the duty to inform includes the responsibilities to tell the truth, provide timely information, practice security at the source, provide consistent information at all levels, and tell the DOD story. While upholding these doctrinal principles, public communication at NORAD and USNORTHCOM aims at building and maintaining relationships with key audiences throughout the area of responsibility. These target audiences include the American public, the international public and stakeholders, internal audiences, and adversary forces.

The North American media environment is likely the most intense in the world, requiring an aggressive public communication strategy. Assertive communications are necessary to transmit the NORAD and USNORTHCOM message over the din of competing messages, and there are a number of challenges confronting such a strategy. At the forefront is the need to tailor the message in innovative ways to facilitate communication across a large and diverse audience. There must be a varied array of products in order to communicate across different media. Initiatives within the NORAD and USNORTHCOM Public Affairs Department to address the realities of a constantly evolving media environment include a Web site that is updated daily, weekly podcasts on current issues ranging from hurricanes to pandemic influenza to home safety and preparedness, and an emphasis on the need for communication in other languages, especially to reach the vast number of U.S. and Mexican stakeholders for whom Spanish is the primary language.

The dynamic nature of the information battlespace highlights the importance of con-

stant evaluation and reinforcement, and the NORAD and USNORTHCOM public affairs program uses a variety of technologies to measure the prevalence and saturation of the commands’ message. This enables measurement of the success of dissemination efforts. An important component of this process is to identify strengths on which to build, one being the credibility that comes from the U.S. military. For decades, the military has resided at the top of rankings on public confidence in leadership and institutions; while the Iraq war has taken its toll on recent rankings, polls show that credibility remains a dominant strength of the military.<sup>10</sup>

Similarly, it is important to identify the issues at the forefront of public opinion and determine means to connect the message to those issues. Since the standup of USNORTHCOM, terrorism has been a top issue, providing an opportunity to capitalize on the salience of the NORAD and USNORTHCOM mission as it relates to defending the homeland. An example occurred during the North Korean missile tests of 2006, during which the Public Affairs Department coordinated with the State Department to provide commentary to news coverage of the event. This enabled USNORTHCOM to simultaneously get name recognition, remind audiences of its mission, and reassure them of its vigilance.

The commands also conduct an aggressive face-to-face outreach strategy that involves appearances where representatives can shake hands and exchange business cards to facilitate relationships. The strategic outreach component of the Public Affairs Division conducts a traveling display program where representatives are sent to numerous trade conferences, such as those held by the International Association of Emergency Managers and the National Sheriffs’ Association. This component is also responsible for coordinating the hundreds of internal and external speaking engagements conducted by staff members of the commands. The aim is to ensure that the entire body speaks with one voice and includes key messages in all interaction with the public. In 2006, for example, over 300 speaking engagements were conducted throughout 30 states and 7 countries, resulting in direct communication with approximately 53,000 people.

The importance of these engagements rests in the relationship-building opportunities created with key stakeholders.<sup>11</sup> These outreach programs are often followed up with a newsletter disseminated to key stakehold-

ers to keep them abreast of the NORAD and USNORTHCOM mission, capabilities, and opportunities for collaboration, laying the groundwork for the efforts of the Interagency Coordination Directorate.

## Horizontal Engagement

The enabling efforts of public affairs facilitate and reinforce the efforts of the IC Directorate at NORAD and USNORTHCOM. Never before has a geographic combatant command been charged with coordinating its activities with such a diverse array of civilian agencies. The necessity of horizontal engagement with key stakeholders, each with its own mission, responsibilities, and organizational culture, presents difficulties to the traditionally hierarchical U.S. military. Nevertheless, the imperative to confront this challenge is addressed in the National Defense Strategy, which identifies the need to increase the capabilities of our international and domestic partners.<sup>12</sup> The efforts within NORAD and USNORTHCOM are symptomatic of a growing external reality as we are increasingly finding the dissolution of hierarchical relationships and the emergence of collaborative and horizontal relationships in their stead. The overarching imperative of IC is to facilitate these horizontal relationships and

Operators watch skies over North America from 21 Aerospace Control and Warning Squadron Operations Center at Canadian Forces Base North Bay



22 Wing Canadian Forces Base North Bay (Kevin Mac Aulay)

information-sharing among and between DOD and myriad Federal, state, and local agencies. These relationships can then be called on to mount a coordinated response to threats.

At the core of the IC role is the provision of an interagency context to combatant command decisions as well as giving the same context to NORAD and USNORTHCOM staff and the corresponding DOD perspective to external agencies. One way this is done is through the biweekly Joint Interagency Coordination Group (JIACG) meetings, which are based on current issues (fire season, intelligence, hurricanes) and in which agency representatives along with NORAD and USNORTHCOM participants meet to exchange information and open lines of communication. Additionally, the IC Directorate operates a battle cell that runs 24/7 during exercises and contingencies and includes interagency representatives and military liaison officers. Another important role of IC is to anticipate requests for NORAD and USNORTHCOM assistance through the National Response Plan framework.<sup>13</sup> This involves capabilities-based assessment in order to determine what assets are available, which will likely be needed, and how the gap can be filled.

Crucially, the IC Directorate is larger than similar efforts under way at other

combatant commands and houses around 60 agency representatives. This physical proximity to interagency mission partners facilitates relationship-building and promotes trust and increased situational awareness. One sign of the success of IC efforts is the value that partner agencies place on these relationships, as shown by the fact that many agencies are using their own funds to send representatives to NORAD and USNORTHCOM. They recognize the increased information-sharing and situational awareness that arise from access to the vast resources available to DOD. Closely related is the potential for advocacy on the part of NORAD and USNORTHCOM on behalf of its smaller mission partners. By housing representatives, the commands learn the constraints that their interagency partners operate under (especially budgetary) and can bring to bear their greater resources to ensure that partners are adequately equipped for mission success. In the event of a contingency, these mission partners will arrive at the scene first, and the DSCA role of USNORTHCOM will be greatly facilitated if networks and relationships already exist from the lowliest responder up to the Secretary of Defense.

### Engaging Allies

A final piece to information-sharing is military-to-military engagement. Security cooperation in North America is characterized by the central role of the U.S. effort to establish domestic security from transnational terrorism. Due to the importance of the United States in defining new security requirements,

a central theme of future North American military engagement is that it will be instigated either because of heightened U.S. security concerns or in response to these concerns by Canada or Mexico. The underlying challenge is to engage the three nations in such a way that Canadian and Mexican responses complement U.S. concerns.

Canadian security cooperation is longstanding and robust, as witnessed by the binational nature of NORAD, while Mexican cooperation is proceeding slowly but steadily (albeit from an almost nonexistent base). At the core of the National Security Strategy is an emphasis on strengthening alliances, and the core of the strategy for the Western Hemisphere “begins with deepening key relationships with Canada and Mexico, a foundation of shared values and cooperative policies that can be extended throughout the region.”<sup>14</sup>

Although implementation remains uneven, post-9/11 policy in the United States markedly prioritizes securing U.S. borders and controlling illegal immigration. The most important demonstration of this policy shift is the reorganization of the relevant Federal agencies—U.S. Customs and Border Protection, Immigration and Customs Enforcement, and Citizenship and Immigration Services—into the Department of Homeland Security. Agencies with important supporting roles, such as the Coast Guard and the Transportation Security Administration, are also housed in Homeland Security. In addition to the Homeland Security Act of 2002 initiating this reorganization, the USA PATRIOT Act of 2001, Enhanced Border Security Act, and Visa Entry Reform Act of 2002 further underlined the primacy of security for U.S. policy.

With regard to Mexico, the U.S. prioritization of border security has repoliticized the longstanding issue of illegal immigration. Since 9/11, it has become increasingly clear that this matter can no longer be ignored. Pressure has emerged on both sides to reach a long-term policy consensus. Mexican agencies continue to cooperate with the United States on issues related to drug control and narcotics trafficking, but many Mexican policymakers passively support the flow of migration to the United States, which has the dual benefit of easing domestic unemployment and creating a multibillion dollar flow of remittances back to Mexico. The Mexican neglect of its northern border is contrasted by the strong security on its southern border, where it deportes over 100,000 illegal aliens annually.<sup>15</sup>

*by housing representatives, the commands learn the constraints that their interagency partners operate under*



USNORTHCOM (Gail Brayman)

These trends seemingly work against efforts to improve security cooperation in the post-9/11 world, but they have been countered by continued negotiation toward increased economic integration, building on the North American Free Trade Agreement. These negotiations serve as a potential vehicle for improving security cooperation.

Indeed, the Security and Prosperity Partnership (SPP) of 2004 aims to couple cooperation on security and economic issues. This is a logical approach because progress toward economic integration will be greatly hindered by disjointed security policies. It is also pragmatic because economic integration has widespread political support in all three countries, and the bundling of security with the economy helps move the issue forward.

The TSC division of the Policy and Plans Directorate at NORAD and USNORTHCOM is charged with engaging Canadian and Mexican military counterparts and applying the engagement strategy arising from executive level guidance and trilateral initiatives such as the SPP. This engagement involves developing relationships with military counterparts in the Mexican army (*Secretaría de La Defensa Nacional*, or SEDENA) and navy (*Secretaría de Marina*, or SEMAR). Accomplishments on this front include the housing of a SEMAR liaison officer within the Policy and Plans Directorate on-site at NORAD and USNORTHCOM headquarters and the July 2007 Senior Executive Dialogue sponsored by the Center for Hemispheric Defense Studies at the National Defense University in cooperation with the TSC division, in which Mexican congressmen, general officers, flag officers, and senior civilian agency representatives held informal discussions with the NORAD and USNORTHCOM commander and directors.

In concert with relationship-building is the aim to develop partner capacity through foreign military sales, foreign military finance, and bilateral training and exercises. Again, cooperation with Canada is superb and longstanding, but collaboration with Mexico is impeded by a lack of formal agreements and technological interoperability, which are themselves impeded by the sanctions placed on Mexico under the American Service-Members' Protection Act (ASPA).<sup>16</sup> The act allows for sanctions cutting foreign military aid to nations that do not sign a bilateral immunity agreement protecting U.S. Servicemembers from prosecution by the International Criminal Court in The

Hague. A central role of the TSC division is to advocate for the removal of these impediments.

The imperative of border control necessitates combined training but requires formal agreements that are not yet in place, so thus far SEMAR and SEDENA have only sent observers to USNORTHCOM exercises. Until the ASPA sanctions are lifted, only counterdrug military assistance can be provided to Mexico, so much emphasis is placed on supporting and formalizing counterdrug efforts initiated through the USNORTHCOM Joint Task Force-North, which provides DOD resources to law enforcement agencies to support counterdrug activities and address transnational threats, support inter-agency synchronization, and promote intelligence and information-sharing. A subset of these activities is directed at TSC with Mexico and Canada. Ultimately, these efforts may culminate in a level of Mexican engagement that follows in the footsteps of the unprecedented cooperation that exists with Canada.

Throughout these efforts, certain themes of success arise that can be taken away and applied to similar efforts throughout the defense and security community. These include the need to avoid being reactive and instead aggressively seek out partnerships and collaboration, the importance of proximity and interaction to build trust and shared situational awareness, and the need to formalize security cooperation at the bilateral level to facilitate the flow of information and cooperation with external partners.

While setbacks abound, the experience of the North American Aerospace Defense Command and U.S. Northern Command shows that threats to the homeland do not respect borders between nations, agencies, or publics, and the way to counter these threats is by developing an adaptive ability to cooperate through common effort and understanding. **JFQ**

## NOTES

<sup>1</sup> Department of Defense (DOD), *DOD Information Sharing Strategy* (Washington, DC: The Pentagon, May 4, 2007), available at <[www.defenselink.mil/cio-nii/docs/InfoSharingStrategy.pdf](http://www.defenselink.mil/cio-nii/docs/InfoSharingStrategy.pdf)>.

<sup>2</sup> Department of Defense, *Strategy for Homeland Defense and Civil Support* (Washington, DC: The Pentagon, June 2005), available at <[www.defenselink.mil/news/Jun2005/d20050630homeland.pdf](http://www.defenselink.mil/news/Jun2005/d20050630homeland.pdf)>.

<sup>3</sup> Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, *Report to the President of the United*

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<sup>4</sup> House of Representatives, Intelligence Reform and Terrorism Prevention Act of 2004, Report 108-796, 108<sup>th</sup> Cong., 2<sup>d</sup> sess., December 7, 2004, available at <[http://a255.gakamaitech.net/7/255/2422/13dec20041150/www.gpoaccess.gov/serialset/creports/pdf/108-796/108-796\\_intel\\_reform.pdf](http://a255.gakamaitech.net/7/255/2422/13dec20041150/www.gpoaccess.gov/serialset/creports/pdf/108-796/108-796_intel_reform.pdf)>.

<sup>5</sup> Executive Order 13388, "Further Strengthening the Sharing of Terrorism Information to Protect Americans," October 25, 2005, available at <[www.whitehouse.gov/news/releases/2005/10/20051025-5.html](http://www.whitehouse.gov/news/releases/2005/10/20051025-5.html)>.

<sup>6</sup> Joint Publication 3-13, *Information Operations* (Washington, DC: The Joint Staff, February 13, 2006), I-1 to I-3, available at <[www.dtic.mil/doctrine/jel/new\\_pubs/jp3\\_13.pdf](http://www.dtic.mil/doctrine/jel/new_pubs/jp3_13.pdf)>.

<sup>7</sup> See Nadine B. Sarter and David D. Woods, "Situation Awareness: A Critical but Ill-Defined Phenomenon," *International Journal of Aviation Psychology* 1, no. 1 (1991), 45-57.

<sup>8</sup> Donald H. Rumsfeld, *Joint Operations Concepts* (Washington, DC: The Pentagon, November 2003), 17, available at <[www.dtic.mil/jointvision/secdef\\_approved\\_jopsc.doc](http://www.dtic.mil/jointvision/secdef_approved_jopsc.doc)>.

<sup>9</sup> Joint Publication 3-61, *Public Affairs* (Washington, DC: The Joint Staff, May 9, 2005), II-9, available at <[www.dtic.mil/doctrine/jel/new\\_pubs/jp3\\_61.pdf](http://www.dtic.mil/doctrine/jel/new_pubs/jp3_61.pdf)>.

<sup>10</sup> The military consistently comes in first for public confidence in institutions in separate polls conducted by Gallup and Harris.

<sup>11</sup> Identifying and communicating with key influencers of stakeholder groups is a main thrust of the recent U.S. *National Strategy for Public Diplomacy and Strategic Communication*, available at <[http://uscpublicdiplomacy.org/pdfs/stratcommo\\_plan\\_070531.pdf](http://uscpublicdiplomacy.org/pdfs/stratcommo_plan_070531.pdf)>.

<sup>12</sup> Donald H. Rumsfeld, *National Defense Strategy of the United States of America* (Washington, DC: The Pentagon, March 2005), 15, available at <[www.dami.army.pentagon.mil/offices/dami-zxg/National%20Defense%20Strategy%20Mar05-U.pdf](http://www.dami.army.pentagon.mil/offices/dami-zxg/National%20Defense%20Strategy%20Mar05-U.pdf)>.

<sup>13</sup> The request process for DSCA is detailed in the National Response Plan. December, 2004, 24, available at <[www.dhs.gov/xlibrary/assets/NRP\\_Full-Text.pdf](http://www.dhs.gov/xlibrary/assets/NRP_Full-Text.pdf)>.

<sup>14</sup> George W. Bush, *National Security Strategy of the United States of America* (Washington, DC: The White House, March, 2006), 37, available at <[www.whitehouse.gov/nsc/nss.html](http://www.whitehouse.gov/nsc/nss.html)>.

<sup>15</sup> George W. Grayson, *Mexico's Forgotten Southern Border: Does Mexico Practice at Home What It Preaches Abroad?* Backgrounder (Washington, DC: Center for Immigration Studies, July 2002), available at <[www.cis.org/articles/2002/back702.pdf](http://www.cis.org/articles/2002/back702.pdf)>.

<sup>16</sup> Department of State, Bureau of Political-Military Affairs, American Service-Members' Protection Act (Washington, DC: Department of State, July 30, 2003), available at <[www.state.gov/t/pm/rls/othr/misc/23425.htm](http://www.state.gov/t/pm/rls/othr/misc/23425.htm)>.



U.S. Coast Guard (Adam Eggers)

Above: U.S. Coast Guard uses high-speed law enforcement boat to combat flow of narcotics through Gulf of Mexico to United States  
Below: Border Protection agents train in urban environment

**W**ith all eyes on the Iraq war and terrorist cells in the Middle East, terrorist activities in Mexico have received little attention from the American public or media.<sup>1</sup> Yet narcoterrorist activities in Mexico pose a danger to hemispheric security. In order to counter these activities and win the war on terror, the United States must strengthen relations and cooperation with its southern neighbor.

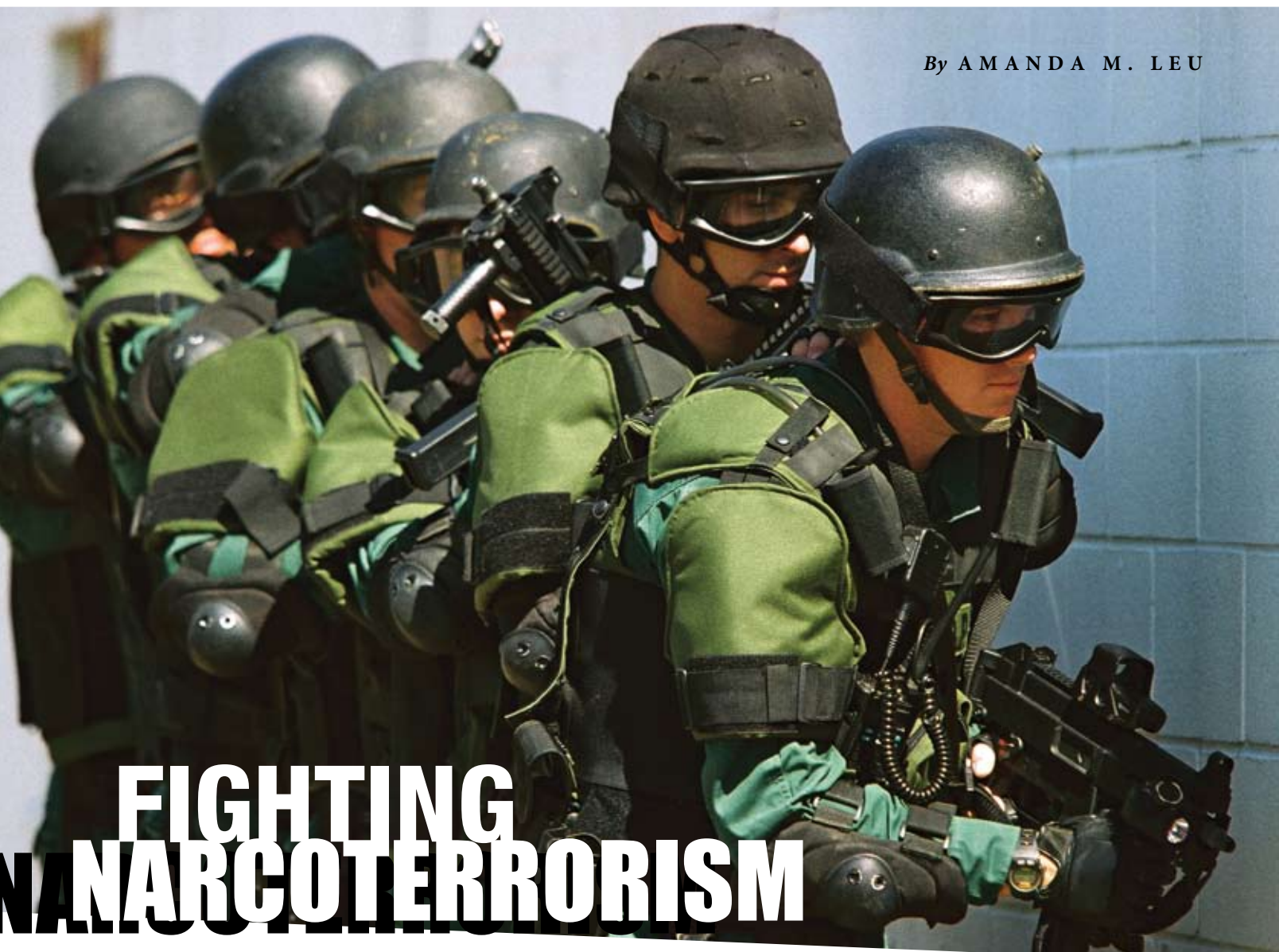
Mexico is more than just a gateway for drugs, however. It also serves as an entry to South America for ideas, business, and political support. It is our second-largest trading partner and third-largest source of imported petroleum. Strong U.S.-Mexico relations are thus essential from not only a geopolitical standpoint but also economically and socially. The 1,980 miles of shared border make it imperative that the two countries work together to solve their common problems.

### Assessing the Threat

Terrorist organizations are increasingly using drug trafficking as a means to fund operations. For example, in Afghanistan, the Taliban taxed poppy farmers to fund its government. For years the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, or FARC) and other terrorist organizations in South America taxed drug farmers to fund operations and resistance movements. More recently, these groups have delved into the business of transporting these drugs because it is often more lucrative than any other means to raise funds.

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By AMANDA M. LEU



# FIGHTING NARCOTERRORISM

U.S. Customs and Border Protection (James Tourtellotte)

The major illicit drug suppliers to the United States are in Latin America, especially Colombia, and they use Mexico as a channel to funnel drugs north. The border between the United States and Mexico has always been vulnerable to drug, human, and arms trafficking, so it provides the perfect place to operate a front business for terrorist funding and to gain access to the United States. Moreover, terrorist organizations do not necessarily need to collaborate with drug traffickers to take advantage of the lawlessness and instability created by warring drug cartels. One U.S. Drug Enforcement Administration official stated, “What we know for sure is that persons associated with terrorist groups have discovered what cartels have known all along: the border is the back door into the U.S.”<sup>2</sup>

Of the illicit drugs entering the United States, 80 to 90 percent are trafficked through Mexico.<sup>3</sup> The high volume of drugs transported has caused a spike of drug use in Mexico, prompting the government there to crack down on traffickers. The problem in Mexico is really threefold: the United States has done little over the past years to support counterdrug operations there; Plan Colombia has created a balloon effect in narcotics production, forcing drug cartels to relocate from Colombia to other South American countries; and the competition between cartels in Mexico and other countries has increased violence and corruption to an almost war-like level. Many Mexican authorities and institutions are at a breaking point. People’s lives are in danger and they do not know whom to trust. Moreover, the cartels are better funded than many government agencies.

Mexico has been profoundly affected by drug trafficking. Levels of violence, corruption, and internal drug abuse rose in 2006. Mexican drug trafficking organizations (DTOs) control domestic drug production and trafficking, as well as the laundering of drug proceeds. These DTOs have set up such an extensive network and infrastructure within some regions of Mexico that they have undermined and intimidated law enforcement and public officials. According to open news sources in Mexico, the drug cartels, particularly the Gulf cartel, are engaged in an intimidation campaign against law enforcement and local officials. During a recent

military operation, Sonora II, it was found that the “police and authorities are sheltering organized crime groups . . . for whatever reason the drugs and weapons were never detected due to ‘strange’ reasons.”<sup>4</sup>

What is more disconcerting is that in light of the growing violence in Mexico, it was publicly learned that “Islamic extremists embedded in the United States—posing as Hispanic nationals—are partnering with violent Mexican drug gangs to finance terror networks in the Middle East.”<sup>5</sup> Extremists could plausibly exploit vulnerabilities along the border for operations other than funding purposes.

### *of the illicit drugs entering the United States, 80 to 90 percent are trafficked through Mexico*

#### **Terrorism and Drug Traffickers**

Growing anti-Americanism (that is, anti-U.S. Government sentiments) in Latin America over the last decade has lent itself to progressively left-leaning and radical ideology. In the past, figureheads such as Fidel Castro encouraged illicit drug trafficking to the United States as a means to weaken the American population. Today, the threat comes from foreign travelers originating abroad and coming to Latin America to use Mexico as a port of entry into the United States. In 2006, Mexico detained 182,715 illegal migrants, most from Central and Latin America.<sup>6</sup> The tri-border region (Argentina, Brazil, and Paraguay) has been nicknamed the “Muslim Triangle meeting zone.” South America has always had problems with radical groups and extremists using drug money to fund operations against established governments, but because these groups never targeted the United States directly, they were not a major concern. In the past, Washington has observed particularly violent groups such as FARC, National Liberation Army (*Ejército de Liberación Nacional*, or ELN), and the Communist Party of Peru (*Partido Comunista del Perú*)/Shining Path (*Sendero Luminoso*, or SL), but the U.S. public perception has always been that drugs are a personal problem and not an impending danger to homeland security.<sup>7</sup>

To say that there is a direct and unquestionable link between DTOs and radical/terrorist groups within Mexico is neither accurate nor reflective of the status quo. These groups operate under different leadership and usually their end goals are not the same; however, they do carry out many of the same functions through organized crime. Both terrorists and drug organizations raise money through illegal means; use front organizations to store, transfer, and distribute money; and use that money to fund more illegal activities. Because both groups use similar methods, it only makes sense that they would find a way to collaborate. Usually, neither group has any moral objections to the other’s objectives, and one can imagine that the terrorist message could strike a chord with Mexican and Latin American publics who are disenchanted with the United States.

Because these two groups regularly operate in many of the same ways, they can also be tracked in many of the same ways. Short of well-established and operational human intelligence capabilities, the best way to track these illicit activities is to follow the money.

Looking at past trends, drug cartels have routinely collaborated with terrorist organizations. Mark Steinitz of the Center for Strategic



ICE agents repatriate former Mexican police officer wanted in Mexico in connection with drug-related killings

Amanda M. Leu supports the U.S. Northern Command Plans, Policy, and Strategy Directorate (J5)/Theater Security Cooperation as part of the Homeland Security and Defense Consortium Internship Program.

and International Studies outlined the history of competition and collaboration. According to Steinitz, Colombian drug trafficker Jaime Guillot-Lara delivered arms to a Cuban client (*Movimiento 19 de Abril*, or M-19) in exchange for Cuban protection of his drug shipments in 1981. Jamaican authorities seized a vessel containing 10 tons of weapons for FARC in 1988. It was later learned that the whole organization was underwritten by Colombian cocaine dealers. In 2000, another

tion for the lucrative profits to be gained from old and new DTOs.

*Sendero Luminoso* is a terrorist organization thought to have been disbanded after its leader was arrested in 1999, yet the group has recently reemerged due in part to the fresh drug money from cartels in Peru. By providing protection to coca growers and traffickers, SL members have received enough cash, supplies, and connections to rekindle the dying organization.<sup>9</sup>

*the Mexican perspective is that Washington should take responsibility for the effects of the country's appetite for illicit drugs*

investigation found that FARC's 16<sup>th</sup> Front netted close to \$15 million in a 2-year period. In 2002, the U.S. Justice Department indicted three FARC members for selling cocaine to traffickers in return for cash, weapons, and other equipment.<sup>8</sup>

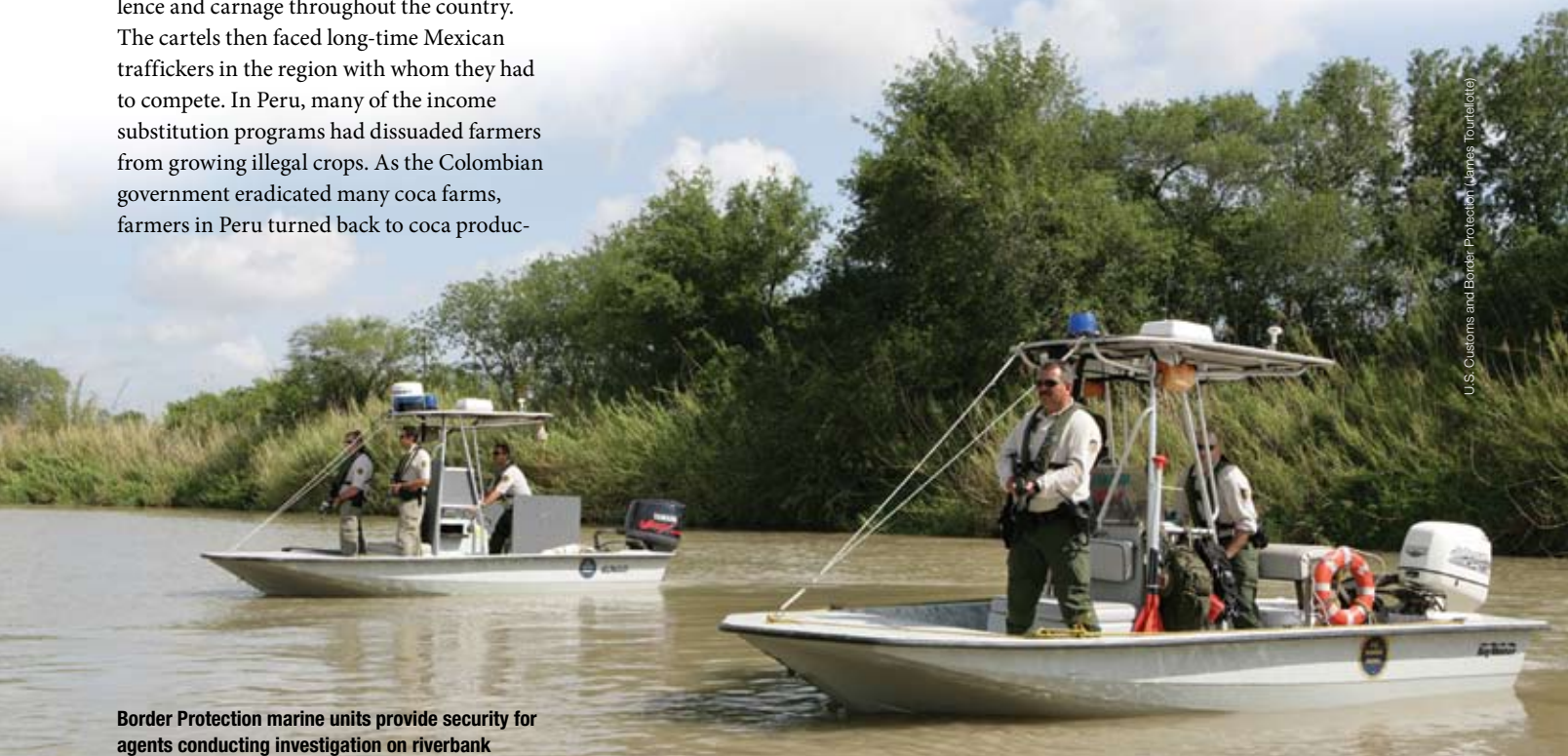
Colombia, with the help of the United States, has been able to disband some drug cartels through operations such as Plan Colombia. Cartels found it hard to operate in Colombia, so they relocated in order to continue meeting demands. Peru seemingly became a popular new home for many cartels, as evidenced by the increasing violence and carnage throughout the country. The cartels then faced long-time Mexican traffickers in the region with whom they had to compete. In Peru, many of the income substitution programs had dissuaded farmers from growing illegal crops. As the Colombian government eradicated many coca farms, farmers in Peru turned back to coca produc-

Drug and terrorist connections can also be traced back to political leaders and authorities. One public example of linkages between leftist organizations and terrorism is the Sao Paulo Forum (*Foro de São Paulo*, or FSP). In its earlier days, members included FARC and the ELN. The presence of these groups at forum meetings brought negative media coverage, and FARC and ELN were recently asked to no longer attend. Whether or not these groups still send unofficial representatives is unknown, though suspicions abound; but recent meetings of the forum have connected radical political

groups with members of drug cartels, terrorist organizations, and well-known arms dealers. Officially, FSP rhetoric discourages acts of aggression. However, because of the radical beliefs of some members, in addition to the close proximity the meetings bring them into, the forum enables groups that might not otherwise collaborate to discuss common beliefs and goals. By bringing a variety of politically oriented people together to talk about the "evils" of capitalism and U.S. policies, it is likely that some individuals collaborate on more actionable ways to reach shared goals. The combination of drug traffickers, radical groups, and anti-American ideology is a disturbing thought indeed.

### Mexican Perspective vs. Washington Consensus

For either the United States or Mexico to dismantle DTOs and cut off terrorist funding, both countries need to learn to work cooperatively. Historically, the countries have had a strained relationship at best. Mexican authorities are still distrustful of the United States and its military because of what they perceive as empty promises, one-sided agreements, and historical wounds that date to the Mexican-American War of 1846–1848.<sup>10</sup> In an age of transnational criminal networks and terrorist organizations, there is no better time



U.S. Customs and Border Protection (James Tourtelotte)

Border Protection marine units provide security for agents conducting investigation on riverbank

for the United States and Mexico to heal old wounds and step forward.

If we consider that the war on drugs is helping to take down those same criminal networks associated with drug trafficking, then a simple look at the facts proves Mexico is doing its part and much more. The Mexican army focuses on three missions: repelling external aggression, providing internal security, and defending against natural disasters.<sup>11</sup> Of these missions, counterdrug operations and counterterrorist operations are one and the same, falling under the second mission of protecting the internal security of the country. Therefore, training and equipment for counterdrug operations also work as counterterrorist training and equipment. Many congressional leaders would say that the war on drugs does not take priority over the war on terror, but in Mexico there can be little separation between them.

Every month, nearly 40 Mexican military and federal personnel sacrifice their lives for the war on drugs.<sup>12</sup> Mexico is struggling to contain a war among the major cartels that had cost more than 1,500 lives as of August 2007, and over 2,000 during 2006.<sup>13</sup> For the Mexican people, the war on drugs is a daily reality in which disappearances, kidnappings, and executions are common occurrences. Since last year, the number of executions and homicides has increased as much as 40 percent in some regions, and in the Mexican state of Guerrero, drug-related deaths rose from 292 to 382.<sup>14</sup>

Since his popular election to the presidency in 2004, Felipe Calderón has earnestly called on the United States to be more active in antidrug actions. The Mexican perspective is that Washington should take responsibility for the effects of the country's appetite for illicit drugs. On the other hand, Mexican congressmen do not want to appear too eager to work with the United States in case it should cause a public opinion backlash.

Mexico was long considered a Third World country, but much has changed. Within the last decade, a growing middle class has begun demanding that the government find ways to provide them with a basic level of security and stability. That has been a hard order to fill for Calderón because of the violence between drug cartels and organized crime. Limited funds and other restrictions have kept Mexico from obtaining critical intelligence collection equipment and the resources needed to track questionable

activities. Essentially, Mexico is saying that it cannot fix what it does not know is broken.

From the American perspective, many regional experts are concerned that weapons of mass destruction (WMD) will find their way across the U.S.-Mexico border because the Mexican military does not have the resources or training to detect these materials. The United States has been working with the Mexican government to equip all of their major ports and U.S.-Mexico points of entry with WMD detection capabilities. Regional experts also believe there is a strong disincentive for Mexican traffickers to help terrorists for fear of U.S. retribution. Still others believe that the United States will not act until after an incident or attack has occurred that is directly linked to Mexico.

To combat the drug cartels, Mexico has deployed large numbers of troops to strategic regions. President Vicente Fox first started using the military to assist local law enforcement with minor conflicts, but it was not until President Calderón came to office that the military was extensively engaged to hunt down and exterminate DTOs. Over the summer of 2007, Mexico saw an increase in the number of soldiers deployed to help law enforcement fight drug cartels and another increase following the Petróleos Mexicanos<sup>15</sup> gas line attack. Additionally, President Calderón's crackdown on corruption seems to be a large contributor to the continued deployments. As more local law enforcement officials are charged with fraud, waste, and

abuse of power, military deployments are needed to replace those indicted.<sup>16</sup>

## Countering Drugs to Counter Terrorism

The creation of U.S. Northern Command (USNORTHCOM) in 2002 was essentially to protect the American homeland, but within its area of operation, the command is also responsible for establishing good relations with its Mexican counterparts. Hurricane Katrina was the first time the Mexican military provided civilian support within U.S. borders. The collaborative efforts between U.S. and Mexican troops following Hurricane

*any training the Mexican military receives to track drug money and criminal networks could also be used to seek out terrorist organizations*

Katrina encouraged the development of other joint initiatives and plans. While many of these initiatives are still in initial stages, parties on both sides recognize that military cooperation is essential to counter transnational security threats.

The Policy and Plans Division of USNORTHCOM coordinates U.S. military professional and technical education and training with the Mexican military to help it to professionalize. The classes provide a



**U.S. Immigration and Customs Enforcement agent searches entrance to tunnel from Nogales, Arizona, to Nogales, Sonora, Mexico, in joint operation with ICE, DEA, and Sonora State Police**

U.S. Drug Enforcement Administration

range of expertise from radar operation, to boiler maintenance, to intelligence analysis. Collaborating on these programs is essential; it not only establishes trust, but also creates a framework in which the two countries can share information, develop system interoperability, and better understand joint capabilities in the event of a crisis.

Currently, USNORTHCOM only provides training and limited funding under American Service-Members' Act sanctions,<sup>17</sup> but it is pursuing means to provide the Mexican military with appropriate equipment to address WMD threats and terrorist vulnerabilities. Correspondingly, any training the Mexican military receives to track drug money and criminal networks could also be used to seek out terrorist organizations. In fact, the supplies, equipment, training, and funding the United States provides to Mexico for counterdrug efforts should be considered by all as dual-use for the war on terror as well.

At the end of summer 2007, after a strategic briefing on the region, President George Bush personally called President Calderón to assure him that the United States wanted to

The relationship is delicate and fraught with uncertainty. Looking toward the future, many matters will need addressing before the two countries can learn to work seamlessly with each other. As with any new initiative, extreme care and sensitivity to cultural differences need to remain top concerns. If an enhanced relationship is to be fostered with Mexico, our southern neighbor must be treated as an ally and given every consideration. Because of past misgivings, stepping forward with such initiatives will be a risky business on both sides of the border. **JFQ**

## NOTES

<sup>1</sup> As this article was being researched, there were scant U.S. news articles or scholarly journals that addressed the rising tensions in Mexico and the need for greater U.S. support there. Many of articles used to support current trends come from Spanish sources.

<sup>2</sup> Sara A. Carter, "Terrorists Teaming with Drug Cartels," *The Washington Post*, August 8, 2007.

<sup>3</sup> See the International Narcotics Control Strategy Report, available at <www.state.gov/p/inl/rls/nrcrpt/2007/>.

<sup>4</sup> Drug cartels are employing the same methods as terrorist organizations by using kidnapping to intimidate and/or extort money from adversaries. A good example is the kidnapping of a police chief's brother. See Alberto Medina, "Levantán a hermano de jefa policiaco de Cadereyta," *Tamaulipas* (Mexico), July 17, 2007, available at <www.tamaulipasenlinea.com/newsmanager/templates/nota.aspx?articleid=19068&zzoneid=12>.

<sup>5</sup> Carter; also see "Advierten sobre vínculos terroristas en Latinoamérica [U.N. Warning on Terrorists in Latin America]," July 27, 2007, available at <www.jaliscoenlinea.com/newsmanager/templates/nota.aspx?articleid=1392&zzoneid=14>. Following a 4-day conference, antiterrorism experts at the United Nations warned that terrorist groups might create links with drug trafficking networks and gangs operating in Latin America.

<sup>6</sup> Dan L. Burton, "U.S.-Mexico Relations," House of Representatives, Subcommittee on Western Hemisphere, Committee on International Relations, Washington, DC, April 26, 2006.

<sup>7</sup> Robert S. Leiken, "War on Terror: Mexico More Critical than Ever for U.S.," *The Sacramento Bee*, March 24, 2002, available at <www.brookings.edu/views/op-ed/leiken/20020324.htm>.

<sup>8</sup> Mark S. Steinitz, *The Terrorism and Drug Connection in Latin America's Andean Region*,

Policy Papers on the Americas, vol. 18, study 5 (Washington, DC: Center for Strategic and International Studies, July 2002).

<sup>9</sup> Sara Miller Llana, "Deadly Drug Cartels Moving into Peru," CBS News, April 3, 2007.

<sup>10</sup> Carlos Luken, "The continuing chill in U.S.-Mexico relations," May 23, 2005, available at <www.mexidata.info/id496.html>.

<sup>11</sup> For more information on this issue from a global perspective, see Mark S. Steinitz, "Insurgents, Terrorists, and the Drug Trade," *The Washington Quarterly* 8 (Fall 1985), 141-153.

<sup>12</sup> This number is taken from a 3-month assessment of Mexican open news sources. This study was originally undertaken to track those contributions that the Mexican government was making to the war on drugs. This number has not been confirmed by the Mexican government and does not include civilians assassinated and/or killed due to drug trafficking and crime. (The number of civilian lives lost is estimated to be significantly greater than military and government employees.)

<sup>13</sup> In 2006, 2,000 lives were lost according to a report from the General Accounting Office (GAO). See GAO, "U.S. Counternarcotics Aid to Mexico" (GAO 07-1018). As of August 2007, 1,500 lives were lost to the drug war. See Sam Enriquez, "U.S., Mexico in Talks to Bolster Drug Fight," *The Los Angeles Times*, August 9, 2007.

<sup>14</sup> Jordi Díez and Ian Nicholls, *The Mexican Armed Forces in Transition* (Carlisle Barracks, PA: Strategic Studies Institute, January 2006), 21, available at <www.strategicstudiesinstitute.army.mil/pdffiles/pub638.pdf>.

<sup>15</sup> Petróleos Mexicanos (PEMEX) is Mexico's state-owned petroleum company, which exports a large amount of natural gas to the United States.

<sup>16</sup> See "Homicide Rate Increases Forty Percent in Guerrero," July 14, 2007, available at <www.notimex.com.mx/admon/mas.php?indices=11&myfecha=2007-07-14&ip=A&clave=&otro=0&mas=7>.

<sup>17</sup> In 2002, Congress passed the American Service-Members' Protection Act (P.L. 107-206, title II), which prohibits military assistance to countries that are party to the International Criminal Court (ICC) and that do not have Article 98 agreements. Article 98 agreements are bilateral agreements between the United States and other recognized nations in which it is agreed that U.S. nationals will not be handed over to the ICC without U.S. consent. Mexico did not enter into these agreements; therefore, the United States has limited the amount of foreign aid.

<sup>18</sup> U.S. foreign relations fall into three categories: friends, partners, and allies. *Friends* are those states with whom Washington has some relationship, *partners* are those we work jointly with on initiatives, and *allies* are those who have close relationships with the United States through treaties and other agreements. Mexico is considered a friend.



U.S. Drug Enforcement Administration

**Extradited leader of Gulf cartel is led off plane in Houston to face drug trafficking charges**

provide assistance and support. Indeed, the Bush administration appears close to finalizing a deal involving hundreds of millions of dollars that would aid Mexico in combating drug cartels. The proposal would include telephone tapping equipment, radar to track illegal shipments by air, aircraft to transport Mexican antidrug teams, and assorted training in addition to efforts already under way. Unfortunately, there are still many skeptics in Washington who fear what this agreement may mean for U.S.-Mexico relations. It could force more intimacy than many are used to.

Despite geographic proximity and warm relations, the United States is still far from having a close partnership with Mexico.<sup>18</sup>

# Radiological Events in the Homeland

By JAMES B. BROWN, RUSSELL E. COBLE, and EMERY J. CHASE


**T**he leadership of al Qaeda has issued fatwas justifying the use of nuclear weapons to bring destruction to the American homeland, and its campaign to recruit those who have expertise and access to radiological weapons is underpinned by ample resources. This reality, combined with the diffusion and increasing amount of radiological materials in the world, creates the fear that the Nation has a radiological rendezvous in its future. Government at all levels is working to anticipate, deter, detect, and defeat this threat.

But what if the enemy is successful? When the baby boomers were children, they passed signs every day for fallout shelters and stocks of water and food to be used in the event of a nuclear attack. While we may not need such drastic measures at present, we should take steps to prepare for a radiological event in the homeland. We need to relearn what we knew during the Cold War. We need to reacquaint ourselves with the radiological effects that could occur and how to mitigate the threat.

The radiological threat can come in various forms, from a highly technical nuclear device to a rudimentary improvised explosive device (IED) with radiological material thrown in to create a form of dirty bomb. A terrorist attack on a nuclear power plant to create a meltdown is another possibility. A nuclear strike on the homeland was a theme in the television show 24, where a nuclear device went off, killing 12,000 people; but the

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Sailor participates in chemical warfare agent training at Defense Research and Development Center in Suffield, Canada

▲ Download as computer wallpaper at [ndupress.ndu.edu](http://ndupress.ndu.edu)

true effects of the weapon were clearly glossed over. Recently, the Federal Government, combined with various state and local governments, exercised how to respond to such an attack. During these exercises, there was much high velocity learning for governmental teams at all levels. This article is a primer for policymakers and decisionmakers on some of the issues they need to consider in planning for and responding to a nuclear detonation. It is imperative that leaders learn and understand these issues because, rest assured, our enemies are working at this moment to bring this terror to reality.

### High-end Nuclear Devices

A nuclear bomb is not easy to build. It requires not only a significant understanding of nuclear physics, bombmaking, and engineering, but also state sponsorship to provide weaponized uranium, materials, and state-of-the-art laboratories for constructing a device that will produce a nuclear yield. The need for state sponsorship is why there is so much fear about the expansion of the nuclear

club to countries that espouse the destruction of the United States or its allies. North Korea's possession of nuclear technology, for instance, has become a major concern for Washington. In addition, Iran's unabashed effort at pursuing the ability to develop nuclear weapons is a similar concern because of the intent of Iran's current president to "wipe Israel off the map," as he stated during his inauguration in August 2005.

Because construction of a nuclear device is so difficult, possibly the best way for a terrorist group to obtain one is to either purchase or steal an already constructed device along with the know-how to set it off. Thus, the suspect sources quickly grow to any nation that has a nuclear arsenal or the ability or desire to obtain one. They range everywhere from the original five members of the nuclear club—the United States, United Kingdom, Russia, France, and China, all of whom have dedicated security and protection measures for their arsenals, along with over 50 years of experience in handling these devices—to the newer members of the club, such as India, Pakistan, and North Korea—all of whom have their own security challenges in the handling of nuclear materials. The threat of the wrong parties purchasing a device is naturally highest where the financial needs and the security challenges of the seller are greatest. Recently, the Pakistani government initiated a public campaign to recover lost nuclear material.<sup>1</sup> While it is praiseworthy that the government would mount such a campaign, the need for it is nevertheless alarming.

### Dirty Bombs

A "dirty bomb" is a poor man's nuclear device. If a terrorist group falls short of the ability to make a device or to get access to an already constructed weapon, then its most likely course of action is to construct a bomb with radioactive materials mixed in that will be dispersed during the blast and create radiological effects. The mere measurement of radioactive presence that is significantly over background radioactivity could create massive panic and impose strategic psychological effects on the victim nation. Consider the effects on the world stage of Russian defector Alexander Litvinenko, who died publicly and painfully in a London hospital in November 2006 due to ingested alpha particles from Polonium 210. Just the trace trail of Polonium 210 across the city and in

the airplane that carried it from Russia to London was enough to create public health concerns.<sup>2</sup> One can only imagine this tragedy playing out in multiple hospitals from a dirty bomb incident.

In the summer of 2006, a man in Ukraine attempted to sell radiological materials<sup>3</sup> and claimed to have access to more. Fortunately, he was selling his materials to state agents. But his activity confirms fears that radiological material is available on the world market and that a dirty bomb is the greatest radiological likelihood when considering nuclear threats to the homeland. In fact, there are ample sources of nuclear material in the United States alone. Medical and some photographic equipment utilizes radiological materials that, if stolen in sufficient amounts, could comprise a radiological component of a dirty bomb.

While the laws of nuclear physics can clearly predict the radiological effects of a nuclear device, the effects of a dirty bomb could be due more to luck and circumstance. Genius bombmaker Ramzi Yousef is now in a "supermax" prison serving several life sentences for his bomb attack on the World Trade Center in February 1993. He was also the architect of the 1995 al Qaeda plans to kill Pope John Paul II and President Bill Clinton and to simultaneously bring down 11 U.S. jetliners in the Bojinka plot. At the World Trade Center, Yousef placed sodium cyanide in the Ryder rental truck carrying the bomb in an effort to create a toxic cloud that would kill survivors and first responders alike. However, in spite of being an expert bombmaker, he overlooked the effects of the initial flash in the confined spaces of the parking garage, and the fireball consumed the sodium cyanide rather than dispersing it. Similar miscues can happen when creating a dirty bomb.

United Nations investigators reported in 1996 that they had evidence that the Iraqi regime conducted state-level tests with dirty bombs in 1987.<sup>4</sup> The desired endstate was to create a lethal dose of 200 REM (roentgen equivalent in man—a unit of radiation dose; acute radiation disease occurs around the 75 REM rate) out to a distance of 12 kilometers. To do this, the Iraqis used irradiated zirconium oxide from a nuclear research reactor mixed in an aerial type bomb. The tests failed to achieve any of their desired radiological effects other than minor contamination of the ground

Airman checks simulated suspicious packages with radiation detection equipment during operational readiness inspection

355th Communications Squadron (Alesia Gosic)



and air near the explosions. The results were measured as having basically the same annual effect as an average X-ray technician receives in a full year of work. In all cases, the normal blast effects of the explosives were far greater than the radiological effects. However, with the right materials, some radiological effects will occur. In particular, as the radiological material is dispersed, it can be expected to create an alpha particle threat that, at the minimum, would incur significant cleanup costs and could have cascading effects on public confidence if the government does not effectively measure the dose rate and define the hazard area as well as the expected results. Indeed, public information will be among the first munitions in countering the effects of a radiological attack. Leaders need to understand the possible impact *before* an incident occurs rather than fall victim to misinformation or, worse yet, become vectors themselves for misinformation.

### Nuclear Effects

There are three major effects from a nuclear device: thermal, blast, and radiological. There is also a fourth effect, which is the electromagnetic pulse (EMP). All of these effects are influenced, for example, by whether a nuclear detonation occurs in the air, on the surface, on the subsurface, or in a well-constructed building. When any bomb goes off, an initial flash, fireball, and thermal effect take place, followed immediately by the blast effects of explosive force that propel shrapnel and debris. The same things occur with a nuclear detonation, but on an entirely different scale. A fireball of incredible intensity launches out in advance of the blast, incinerating fuel in its path close to the blast and causing lesser burns farther from the detonation. In a 14-kiloton blast (the equivalent of 14,000 tons of dynamite), which is the rough magnitude of the bomb dropped on Hiroshima, Japan, near the end of World War II, thermal effects are felt as far as 2,500 meters, and the blast effects are seen at more than 3,000 meters.

The initial devastation of a nuclear attack will always be felt in thermal wave and blast. The pictures of devastation at Hiroshima are testimony to these effects, but one should remember that the quality of construction there was considerably beneath that in a major Western city today. The dev-

astation would be severe, but perhaps not as severe as in Hiroshima or Nagasaki.

One of the first two radiological effects of a nuclear detonation is gamma rays, which pass through most materials, instantly radiating those within reach. For example, in a 10-kiloton detonation, gamma rays would be expected to extend out to approximately 1,700 meters in all directions. Gamma rays generally pass one time from the source of the detonation forward. There is, however, the phenomenon known as "ground shine gamma," in which inanimate objects that have been radiated by a large blast can emanate residual gamma rays. This is not an immediate hazard due to the light dose rates of ground shine gamma, but it is a significant cleanup and disposal issue that needs to be considered. All gamma rays can be measured by simple radiological detection equipment, such as an old ANPDR/27 that looks similar to a Geiger counter.

*in a 14-kiloton blast, thermal effects are felt as far as 2,500 meters, and blast effects are seen at more than 3,000 meters*

Alpha and beta radiation are the more commonly understood forms of radiation in a nuclear blast. Alpha particles have an extremely limited range in air, have little ability to penetrate the skin, and are of minor significance unless they are inhaled or ingested. Beta particles are much less penetrating than gamma rays but can be extremely harmful if a beta-emitting substance is ingested or deposited on the skin.

The second immediate radiological effect is a one-time EMP that destroys or disrupts electrical circuitry within its blast area. Less is known about EMP than the other effects of a nuclear blast. It occurs when gamma radiation collides with atoms/objects in the air. Electrons are stripped from the atoms, and the freed electrons move, causing strong electromagnetic fields. This would have the effect of immediately making in-flight helicopters inoperable and destroying cell phone towers and repeaters as well as supervisory control and data acquisition-type electronic controls. Moreover, if the weapon is detonated on or near the ground, the range of EMP damage is expected to be limited to the immediate blast area. For example, with a 10-kiloton device, the expected EMP blast radius would range from

5,000 meters (temporary disruption) to 30 kilometers (possible temporary interference).

### Radiological Effects

When the Chernobyl nuclear melt-down occurred in April 1986, firefighters courageously fought the fires with little time to be concerned with radiological effects. The Chernobyl accident caused many severe radiation effects almost immediately. Of 600 workers on the site, 134 received high exposures (ranging from 50–1,340 radium absorbed doses [rad]) and suffered from radiation sickness. Of these, 28 died in the first 3 months, and 19 died from 1987 to 2004 of various causes not necessarily associated with radiation exposure. In addition, according to the 2000 report of the United Nations Scientific Committee on the Effects of Atomic Radiation,<sup>5</sup> during 1986 and 1987, about 450,000 recovery operation workers received doses between 1 and 100 rad. Acute radiological sickness is expected to occur in healthy 20-year-old males around an accumulated



Vehicles outside Murrah Federal Building destroyed by bombing

U.S. Air Force (Preston Chastain)

exposure of 75 rad, a dose that will cause the onset of symptoms within 1 hour to 2 days.

To deal with a radiological threat area, operational exposure guidance is established by the principal Federal officer or lead official to ensure that the proper standards are applied for first responders and response personnel to preserve life and health. Generally, an emergency immediate dose rate of 25 rad is the maximum allowed and then only for saving the lives of afflicted personnel. Five rad is the level at which responders are normally to be evacuated from an affected area, and to ensure their protection they are not allowed to return. Sheltering in place is an option for those personnel in an area where remaining inside will only incur a dose rate of 1 rad. A maximum annual dose rate that an X-ray technician is allowed to receive is 5 rad, and a single X-ray carries a dose rate of 0.02 rad. A normal average annual overall dose is 0.36 rad. This helps provide an understanding of the acceptable levels of radiation exposure.

Judging from the poor effects of Iraqi attempts at creating radiological effects with

state-sponsored dirty bombs, it is likely that a dirty bomb may create a major cleanup problem which could limit access to the

*judging from Iraqi attempts, a dirty bomb may create a major cleanup problem, but it will not likely cause radiological sickness*

affected areas, but it will not likely cause radiological sickness or death. Protective equipment such as thin disposable Tyvek suits and respirator masks is necessary for those working in affected areas. Given these precautions, residual radiological effects can be mitigated.

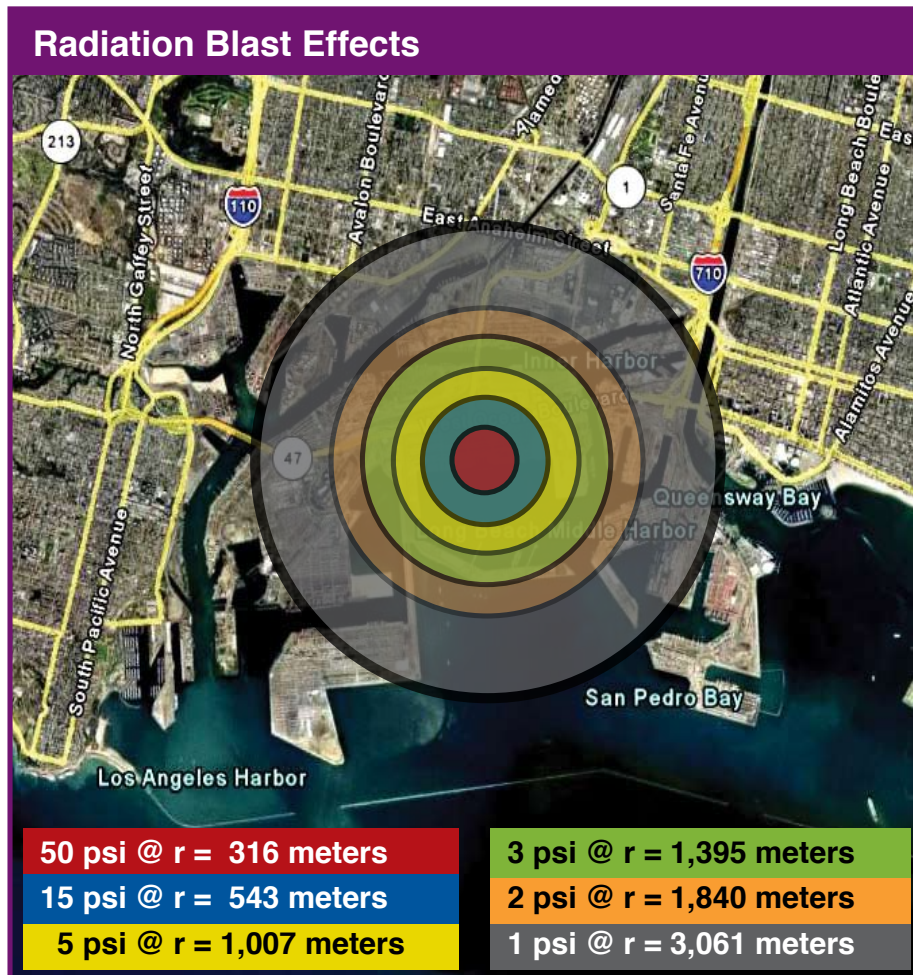
### Deterrence through Response

Since the 1950s, the strategy of deterrence has encompassed various concepts, such as massive retaliation and mutual assured destruction. In all cases, the foundation of deterrence relied on threatening to destroy a nation-state's ability to wage war and survive.

With respect to nation-states, this strategy continues to be successful. However, subsequent to the attacks of September 11, 2001, a different threat came to be seen as more likely than that from hostile nation-states. A new deterrence calculus was needed to respond to the threat from terrorists and nonstate actors, as well as to maintain the traditional deterrent architecture to address nation-states. This calculus presumes that a terrorist may be successful in a nuclear or radiological attack against the United States or its interests.

In "Deterring a Nuclear 9/11," Caitlin Talmadge describes various nuclear deterrence theories.<sup>6</sup> One theory, "deterrence by punishment," includes the threat to impose unacceptable costs on an enemy for any hostile action. With respect to terrorist and nonstate actors using weapons of mass destruction (WMD), this theory has evolved into national policy that includes the prospect of an overwhelming response to such an attack. However, an effective response to a WMD attack from terrorists or nonstate actors requires a rapid identification of the source and perpetrator through attribution—that is, "the rapid fusion of technical forensic data with intelligence and law enforcement information."<sup>7</sup> Talmadge concludes that "nuclear forensics is the linchpin of any attempt at deterrence by punishment." An essential ingredient of attribution, and therefore nuclear forensics, is the fact that the U.S. ability to identify the source of the material is public and well known.

The science of nuclear forensics involves the tracing of unique radiological isotopes and material from devices or bombs to their source. It is a multilayered, deductive process requiring analysis and interpretation of a range of information, including material, physical, chemical, and isotopic traits. The results of this analysis will provide indicators not only of the source of the material involved, but also of whose material it is not. Nuclear forensics, involving rad-chemical analysis, modeling, and use of sets of data, is a documented process that is bound by the laws of physics and the actual processes needed to conduct the analysis. Its foundation lies in capabilities developed during the Cold War and is well documented and understood. The results of this analysis, when combined with national intelligence and classic law enforcement activities, may provide the identity of the



perpetrator and the information needed by national decisionmakers for response.

In October 2006, the Department of Homeland Security established a National Technical Nuclear Forensic Center (NTNFC). In conjunction with the Departments of Defense, Energy, and State, 10 national laboratories, and the Federal Bureau of Investigation, the NTNFC is responsible for developing the national architecture for conducting nuclear forensics essential to implementation of the new deterrent policy. The center is also charged with developing advanced nuclear forensics capabilities for pre- and postdetonation radiological material. The postdetonation mission is new for the United States, a result of the calculus of the deterrent policy that presumes an attack might be successful.

### First Response/Mitigation

The first responders at an incident site will likely be exposed to significant levels of radiation. Once radiation is detected, however, the area can be cordoned off and a shelter-in-place order can be issued for the areas adjacent to the site. Evacuation and decontamination of the injured become the top priorities of the immediate responders. Simultaneously, identifying the extent/limits of contamination becomes extremely important in preventing the spread of radioactive contamination. Understanding proper shelter-in-place procedures can significantly reduce unnecessary exposure.

Decontaminating a large, densely populated urban area will be the biggest issue facing the restoration and remediation effort. Having the appropriate decontamination techniques established and long-term plans in place before an incident occurs will improve the government's ability to recover from a radiological dispersal device attack. In some cases, decontamination of buildings and other infrastructure to safe levels will not be an option and the assets will need to be destroyed and removed.

The process of decontamination creates many other challenges as well. For example, when using fresh water wash-down techniques to decontaminate workers or material, the water mixes with the removed alpha particles and becomes a contaminant itself. The volume of contaminated water can become massive, so planning for storage and mitigation is needed.

The United States faces an increasing threat from a radiological terrorist attack involving either a radiological or nuclear device. Recently, the Federal Government worked collectively with various state and local governments to exercise their response to this sort of attack. In addition to training events, it is apparent that leaders at all levels need to study and plan for the mitigation of radiological effects in case the Nation is faced with a radiological event in the homeland. These forms of attack pose a significant challenge, not only because of their destructive power but also because of the inevitable psychological impact they would cause. Understanding and anticipating the challenges of these effects are first steps to mitigating the unacceptable levels of risk posed by this sort of attack. While prevention remains the first priority, it is important to be prepared to respond if that fails. First responders must be trained, equipped, and exercised. Collaboration, communication, and engagement are the fundamental cornerstones for every aspect of response operations. **JFQ**

### NOTES

<sup>1</sup> "Pakistan downplays radioactive ad," BBC News, May 2, 2007, available at <[http://news.bbc.co.uk/2/hi/south\\_asia/6616225.stm](http://news.bbc.co.uk/2/hi/south_asia/6616225.stm)>.

<sup>2</sup> "Sophistication behind spy's poisoning," BBC News, November 28, 2006, available at <<http://news.bbc.co.uk/2/hi/science/nature/6190144.stm>>.

<sup>3</sup> "Another Russian arrested in Ukraine for attempt to sell radioactive substance," Nuclear Threat Initiative, Abstract 20020500, September 21, 2002, available at <<http://www.nti.org/db/nis-traff/2002/20020500.htm>>.

<sup>4</sup> United Nations, 1<sup>st</sup> Report under United Nations Security Council Resolution 1051 (S/1996/258), April 11, 1996, available at <[www.iraqwatch.org/un/UNSCOM/1051/s-res-1996-258.htm](http://www.iraqwatch.org/un/UNSCOM/1051/s-res-1996-258.htm)>.

<sup>5</sup> United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR), "UNSCEAR assessments of the Chernobyl accident," available at <[www.unscear.org/unscear/en/chernobyl.html#UNSCEAR](http://www.unscear.org/unscear/en/chernobyl.html#UNSCEAR)>.

<sup>6</sup> Caitlan Talmadge, "Deterring a Nuclear 9/11," *The Washington Quarterly*, Spring 2007, 21–34.

<sup>7</sup> George W. Bush, *National Strategy for Combating Terrorism* (Washington, DC: The White House, September 2006), 15.

Part of Shinto shrine remained standing after atomic bomb was dropped on Nagasaki, October 1945



U.S. Marine Corps (R.J. Battersby)



# The Domestic IED Threat

By JOHN KRESS and STEVEN GROGGER

**T**errorists have clearly demonstrated both the intent and capability to employ improvised explosive devices (IEDs) worldwide. This tactic has been used by the Irish Republican Army in Britain, insurgents in Iraq and Afghanistan, the Medellín cartel in Colombia, Muslim extremists in London, and numerous other terrorist and criminal organizations. Intelligence estimates support the conclusion that terrorists will continue to use IEDs to achieve their objectives. As seen in Iraq, “the various recovered terrorist training manuals describe in great detail the process by which operatives can convert common chemicals into explosives. In addition, their instruction manuals demonstrate the ease by which explosives can be manufactured by the average person with a limited knowledge of chemistry.”<sup>1</sup> It will take a joint effort at all levels of government to mitigate this threat to the homeland.

## Presidential Directive

On February 12, 2007, President George W. Bush signed Homeland Security Presidential Directive-19 (HSPD-19), which addresses the threat of terrorist use of explosives and IEDs in the United States. The directive states that with our open and free society, this threat will be a challenge because of the ready availability of potential IED materials and components, evolving tactics for employment, and the ease with which instructions can be found to create them for numerous operational requirements and targets. These challenges

are addressed and mitigated by the directive’s focus on a layered security strategy.<sup>2</sup>

The layered security strategy will “deter, prevent, and detect terrorist use of explosives before threats become imminent and ensure that protection and response efforts effectively neutralize or mitigate attacks should they occur.”<sup>3</sup> HSPD-19 tasks the Department of Justice to develop a national strategy for IED incidents and to produce an IED annex to the National Response Plan. HSPD-19 also directs Department of Homeland Security (DHS) collaboration throughout this process. The threat of IEDs in the homeland and the release of HSPD-19 have prompted several exercises and joint conferences to determine how this strategy will be implemented in an interagency environment.

## Key Players

Currently, several Federal agencies have responsibility for different aspects of the IED threat to the homeland. Under a possible recommendation addressed in HSPD-19, a Federal Government entity may be created to coordinate these multiple agencies to ensure that the national IED strategy is synchronized

in regard to training, research and development, intelligence, and national initiatives.<sup>4</sup>

The Office of Bombing Prevention (OBP) is the DHS lead agent for ensuring that diverse IED security programs nationwide function together to meet evolving bombing threats. Secretary of Homeland Security Michael Chertoff tasked the OBP with leading the collaborative effort to develop the national strategy for IEDs, which addresses the 11 requirements prescribed in HSPD-19, including an inventory of existing statutes, regulations, and policies, and an assessment of the combined governmental capability to deal with IED threats or events. The OBP is dedicated to enhancing and coordinating the Nation’s ability to detect, deter, prevent, and respond to attacks that use IEDs against critical infrastructure, key resources, and soft targets.<sup>5</sup>

The Justice Department’s Bomb Data Center (BDC) is lead for all explosive events in the United States and maintains the official database for these types of events. The BDC conducts trend analysis and posts national advisories on explosive thefts and major explosive incidents.<sup>6</sup>

The Joint IED Defeat Organization (JIEDDO) is a Department of Defense (DOD) agency whose stated mission is to “focus (lead, advocate, coordinate) all DOD actions in

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**Motion detector-type improvised explosive device with detonator**

support of Combatant Commanders' and their respective Joint Task Forces' efforts to defeat Improvised Explosive Devices as weapons of strategic influence.<sup>77</sup>

The Federal Bureau of Investigation (FBI) Terrorist Explosive Devices Analytical Center coordinates and manages the full technical and forensic analysis of terrorist IEDs to understand their origin and evolution.<sup>8</sup> The Joint Terrorism Task Force is composed of Federal, state, and local law enforcement personnel, who have the responsibility to investigate terrorist threats and activities and respond to terrorist incidents, to include bombing matters. The task force provides "forums for inter-agency and intergovernmental collaboration on prevention activities."<sup>79</sup>

The communication architecture that is in place to address the IED threat includes an Incident Database maintained by the Justice Department in coordination with DHS and the Office of the Director of National Intelligence (ODNI). This database includes information on incidents involving the suspected criminal misuse of explosives and a secure information-sharing system concerning the use of explosives as a terrorist weapon that is maintained by DHS, in coordination with Justice and ODNI. Also, DHS, in coordination with Justice, DOD, and the Office of Science and Technology Policy, coordinates Federal research, development, test, and evaluation initiatives relating to the detection and prevention of, protection against, and response to explosive attacks.<sup>10</sup>

### Cabinet-level Exercise

In April 2007, the executive branch hosted a Cabinet-level exercise that focused on

testing the response to a domestic IED terrorist attack. It involved attacks against transportation assets (for example, subway, rail), other key infrastructure (energy), and unprotected targets (churches, schools) over a 23-day period. The lessons learned included the need to coordinate the Federal response with the Nation's Governors and to understand better the capabilities, limitations, and factors controlling the employment of DOD assets during an incident. As part of the exercise, the acting DOD Secretary, Attorney General, and DHS Secretary were asked to determine the most effective use of military forces (Title 10 Active duty, Title 32 National Guard, or a combination of both) by providing a decision matrix that would be incorporated into a revised National Response Plan.<sup>11</sup>

### Contingency Plans

The U.S. Northern Command (USNORTHCOM) area of responsibility includes air, land, and sea approaches. It encompasses the continental United States, Alaska, Canada, Mexico, and the surrounding water out to approximately 500 nautical miles. It also includes the Gulf of Mexico and the Straits of Florida. The commander of USNORTHCOM is responsible for theater security cooperation with Canada and Mexico. The command's mission is to anticipate and conduct homeland defense and civil support operations within the assigned area of responsibility to defend, protect, and secure the United States and its interests.

USNORTHCOM addresses the IED threat with four contingency plans (CONPLANS):

- Regional War on Terrorism (CONPLAN 3475) establishes a framework for the USNORTHCOM role in the war on terror and synchronizes how the command will work with the rest of the U.S. Government and law enforcement agencies and engage theater support cooperation efforts with Canada and Mexico.

- Homeland Defense (CONPLAN 3400) deters, prevents, and defeats threats and aggression aimed at the United States, its territories, and interests within the assigned area of responsibility. It includes precoordinated, preplanned flexible deterrent options and force package options.

- Defense Support of Civil Authorities (CONPLAN 3501) describes DOD support to civil authorities during natural disasters

and civil emergencies. This plan is aligned to support the National Response Plan and is a generic umbrella plan for domestic support.

- Chemical, Biological, Radiological, Nuclear, and High Yield Explosives Consequence Management (CONPLAN 3500) describes the concept for DOD support to civil authorities. This plan provides response forces for multiple, near-simultaneous events and is designed to augment local, tribal, state, and other Federal agency efforts.<sup>12</sup>

*an integral part of collaborating and developing policy for the IED threat to the homeland is using the National Planning Scenario*

These plans are active in both pre- and post-IED events. USNORTHCOM, however, has significant statutory limitations proscribing its authority. Operations are limited by U.S. policy and the command structure between Title 10 and Title 32 forces; additionally, domestic operations are rarely led by DOD.

### National Planning Scenario

An integral part of collaborating and developing policy for the IED threat to the homeland is using and understanding the National Planning Scenario (NPS), which is "designed to be the foundational structure for the development of national preparedness standards from which homeland security capabilities can be measured."<sup>13</sup> NPS-12, "Explosives Attack: Bombing Using an IED," is based on the use of multiple devices and coordinated attacks by the enemy. It includes multiple suicide bombers within subways or entertainment arenas, vehicle bombs in sports or entertainment parking areas, or large vehicle bombs



Federal Bureau of Investigation (David K. Jennings)

**FBI agents train at Hazardous Device School**

disguised as emergency response vehicles at the emergency room of the nearest hospital to the arena. For planning purposes, casualties are estimated at 100 fatalities and 450 hospitalized individuals. The economic impact would be in the millions of dollars and include significant damage to infrastructure by blast and fire, resulting in a recovery time of weeks to months.

### Key Questions

In June 2007, USNORTHCOM sponsored a conference entitled “IEDs in the Homeland,” which was a brainstorming event with representation from interagency partners, Service components, and JIEDDO. Key participants included the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), BDC, DHS, and OBP. The goal of the conference was to answer several key questions and to allow the various agencies to identify and discuss the IED threat based on NPS-12.

*What constitutes an IED “campaign”?* The USNORTHCOM conference made several threat assessments that complemented NPS-12 and facilitated defining what constitutes an *IED campaign*. The assessment assumed that the highly successful tactics, techniques, and procedures (TTPs) employed by insurgents and terrorists in the past (and in the present, particularly in Southwest Asia) would be copied and applied by future parties threatening the homeland. A point raised by these assumptions is that DOD current hands-on experience in detecting, countering, and responding to IEDs is an invaluable resource that must be tapped in order to train agencies outside of DOD. The USNORTHCOM assessment focused on a protracted campaign instead of isolated sporadic attacks. According to the unclassified National Intelligence Estimate report, there are several threats that could employ IEDs in the homeland.

The first and primary threat is from Islamic terrorist organizations, specifically al Qaeda. This threat will probably seek to leverage the contacts and capabilities of al Qaeda in Iraq.<sup>14</sup> Of main concern is the group’s proficiency with conventional small arms and IEDs, along with its ability to develop new TTPs and to overcome obstacles to security. The threat will focus on prominent political, economic, and infrastructure targets with the goal of producing mass casualties, visually dramatic destruction, significant economic aftershocks, and/or fear within the U.S. population.<sup>15</sup> To accomplish these goals, the group may employ chemical, biological, radiological, nuclear, or explosive (CBRNE) material.

The second threat that could use IEDs in the homeland is single-issue organizations. This threat includes such groups as the Oklahoma City bombers and other internal U.S. terrorist and criminal organizations. These groups often try to challenge or change the government and its policies. They could utilize different techniques than the Islamic terrorist organizations, as many are able to blend in and use their knowledge about the homeland to increase their chances of successfully launching an attack.

*How might DOD support IED prediction, detection, and deterrence in the homeland?* With DOD’s current understanding of and real-world experience in IEDs, especially explosives ordnance teams, its knowledge could greatly enhance the training of other agencies that could disarm or destroy IEDs as first responders. This knowledge has been used in supporting the FBI’s Hazardous Devices School in partnership with the Army Ordnance Munitions and Electronic Maintenance School in Huntsville, Alabama. If legally authorized and

*if an escalation of explosive events occurred, the National Response Plan would be initiated and DOD could be tasked to provide support to civil agencies*

NPS-12 does provide an idea of the level of event that would likely characterize a campaign. HSPD-19 characterized Theodore Kaczynski’s series of bombings against professors, airlines, and corporate executives over nearly 20 years as the “Unabomber Bombing Campaign.” The directive also characterized Eric Rudolph’s bombing of multiple targets from 1996 to 1998 as the “Eric Rudolph Bombing Campaign.” The likely course of action that could be called a *campaign* would include IEDs detonated in multiple moderate to large metropolitan areas over a short or extended time and including selected symbolic targets.

formally requested, DOD also has significant intelligence, surveillance, and reconnaissance assets that could assist other agencies in defeating an IED campaign.

*Do existing North American Aerospace Defense Command and USNORTHCOM CONPLANS/execute orders meet interagency expectations for potential DOD support?* Conference participants identified several phases of IED incident or attack evolution and the resulting action by various agencies. In the initial phase, single IED incidents occur and are dealt with by local, state, and Federal law enforcement. USNORTHCOM would take action to increase security and force protection



Joint Improvised Explosive Device Defeat Task Force works to eliminate IED threat during joint Army–Air Force exercise

U.S. Air Force (Stephen Otero)

at DOD facilities. If an escalation of explosive events occurred, the National Response Plan would be initiated and DOD could be tasked to provide support to civil agencies. USNORTHCOM would expect to receive requests for law enforcement assets, including bomb detection equipment and military working dogs. Affected state Governors would activate National Guard assets in a Title 32 status, which would allow them to augment law enforcement agencies (once approved by the Secretary of Defense and President). USNORTHCOM could expect mission assignments in accordance with defense support of civil authorities concept plans to include communications, transportation, logistics, medical, and incident awareness/assessment support. If explosive events continued to escalate, augmented by other attacks, at some point Federal law enforcement could be overwhelmed in terms of its ability to provide security, and, if directed by the President, DOD could assume the lead and conduct operations in accordance with existing homeland defense concept plans.

#### *What are the significant challenges?*

One challenge discussed by conference participants was the increased use of hydrogen peroxide- and acetone-based explosives in developed nations where military-grade high explosives are not readily available, as is the case in the homeland. At present, law enforcement and security officials have a limited ability to detect these “bathtub” explosives, including triacetone triperoxide (TATP) and hexamethylene triperoxide diamine. The two main methods of detecting these explosives are canines and technology. The ATF is the Justice Department lead agency for training canines for other Federal, state, local, and international law enforcement agencies. The agency conducts a 2-day program to familiarize canines with various explosives. (During fiscal year 2007, the ATF trained 226 canine teams to find peroxide-based explosives.<sup>16</sup>)

One example of this type of IED occurred on October 1, 2005, when a University of Oklahoma student accidentally blew himself up with homemade TATP. On September 29, 2005, he attempted to purchase fertilizer (presumably to manufacture ammonium nitrate/fuel oil), which raised suspicions from a local off-duty law enforcement officer. This information was not immediately acted on, and the student was able to manufacture over 3 pounds of TATP in his shared apartment.<sup>17</sup>

Another challenge identified by the USNORTHCOM conference was the use

of strategic communications during an IED attack. An important question was who would first use the term *campaign*. This word could trigger significant political and procedural implications. It was determined that its most likely first use would be by the media. It was also determined that it would not be the role of DOD or USNORTHCOM to designate an attack or series of attacks as a campaign. USNORTHCOM and DOD would follow the strategic communication guidance used by the lead agency. The importance of terminology during an attack shows the need and challenges for interagency joint cooperation.

A terrorist threat or incident may occur at any time of day with little or no warning, involve single or multiple geographic areas, and result in mass casualties. The likelihood continues to grow that such incidents will include improvised explosive devices. Defeating these attacks in the United States will be a joint effort between Federal lead agencies and other interagency partners, including the Department of Defense. It is incumbent on the department to ensure that expertise gained in the Middle East continues to be shared with interagency partners in the homeland. All agencies from local to Federal must understand what policies are in place to mitigate this threat. United States Northern Command's Force Protection and Mission Assurance Division will continue to analyze national IED policies and documents as they emerge. **JFQ**



Members of LAPD bomb squad and bomb detection canine unit

## NOTES

<sup>1</sup> James I. Rostberg, “Common Chemicals as Precursors of Improvised Explosive Devices: The Challenges of Defeating Domestic Terrorism” (Master’s thesis, Naval Postgraduate School, 2005), 10.

<sup>2</sup> “Draft HSPD–19 Report to the President of the United States Including a National Strategy and Recommendations,” July 25, 2007, 7.

<sup>3</sup> Ibid.

<sup>4</sup> George W. Bush, Homeland Security Presidential Directive/HSPD–19, “Combating Terrorist Use of Explosives in the United States” (Washington, DC: The White House, February 12, 2007), available at <www.whitehouse.gov/homeland/hspd19/>.

<sup>5</sup> Tony Villa, “Office of Bombing Prevention: Introduction and Overview,” briefing presented during USNORTHCOM IED Conference, Peterson AFB, June 26–27, 2007.

<sup>6</sup> Jesse L. Chester, “Bureau of Alcohol, Tobacco, Firearms, and Explosives: Counterterrorism Division,” briefing presented during USNORTHCOM IED Conference, Peterson AFB, June 26–27, 2007.

<sup>7</sup> Department of Defense Directive 2000.19E, “Joint Improvised Explosive Device Defeat Organization,” February 14, 2006, 2.

<sup>8</sup> “Draft HSPD–19 Report,” 27.

<sup>9</sup> Ibid.

<sup>10</sup> Villa.

<sup>11</sup> Frances F. Townsend, “Lessons Learned from the Cabinet Level Exercise of February 24, 2007,” memorandum for supporting agencies (Washington, DC: The White House, March 21, 2007).

<sup>12</sup> Kevin Pace, “NORAD–USNORTHCOM Plans Summary with Respect to the IED Threat,” briefing presented during USNORTHCOM IED Conference, Peterson AFB, June 26–27, 2007.

<sup>13</sup> David Howe, “Planning Scenarios Executive Summaries, Created for Use in National, Federal, State, and Local Homeland Security Preparedness Activities,” report prepared by the Homeland Security Council, July 2004, vi.

<sup>14</sup> See Office of the Director of National Intelligence (ODNI), “Declassified Key Judgments of the National Intelligence Estimate ‘Trends in Global Terrorism: Implications for the United States’ Dated April 2006” (Washington, DC: ODNI, September 26, 2006), available at <www.dni.gov/press\_releases/Declassified\_NIE\_Key\_Judgments.pdf>.

<sup>15</sup> Ibid.

<sup>16</sup> Bureau of Alcohol, Tobacco, Firearms, and Explosives, “Canines Sniff Out Peroxide-Based Explosives, Improvised Explosive Devices,” news release, March 7, 2007.

<sup>17</sup> “College Suicide Bomber Tried to Buy Fertilizer,” Associated Press, October 7, 2005, available at <www.foxnews.com/story/0,2933,171522,00.html>.



Flooding in New Orleans after Hurricane Katrina

# Applying Lessons of Hurricane Katrina

In the early morning of August 29, 2005, the eye of Hurricane Katrina reached the coasts of Louisiana and Mississippi. While the winds at landfall were assessed as only Category 3, the span of destruction and accompanying storm surge reflected the hurricane's earlier Category 5 strength. Tropical storm-force winds and rain extended as far east as the Florida panhandle. A wall of water swamped coastal areas, causing the levees protecting New Orleans to break. Communications were disrupted by failed circuits and cellular towers, as well as by the loss of electrical power throughout southern Louisiana. Regional emergency operations centers became isolated, and some were completely disabled. Unable to offer assistance to others, many emergency responders became disaster victims themselves.

By GREGORY A.S. GECOWETS  
and JEFFERSON P. MARQUIS

One of several messages left on roofs of homes shortly after rescue operations began in New Orleans



The damage caused by Hurricane Katrina and the levee breaks in New Orleans presented the Nation with a catastrophe that it was not prepared for. Responders were overwhelmed. Local, state, and Federal authorities did not understand what was happening and thus did not initially share critical information, quickly organize the response effort, take needed initiative, or work effectively with the media to get the facts to the people.

The private sector, nongovernmental organizations, and government at all levels have taken corrective actions as a result of Katrina. Response capabilities for a future event of that scale have thus improved, but public expectations may be difficult to meet. The gap between public needs and available resources may not always be completely closed. While the onus for an effective response falls on local and state governments as well as civilian Federal agencies, Active duty and Reserve forces provide a powerful capability and will remain a key part of the national effort.

This article provides a framework for analyzing incident management and highlights challenges that affect the level of unmet requirements in a catastrophe. Based on the findings of two studies conducted for the U.S. Joint Forces Command (USJFCOM) by the Joint Center for Operational Analysis (JCOA) in 2005–2006, the focus is on response timeframes and activities instead of longer-term recovery and restoration. Furthermore, the article presents a broad brush appraisal of national response capabilities more than 2 years after Katrina. It is not intended as a comprehensive report card of post-Katrina corrective actions.

## Response to Katrina

Two ways of characterizing incidents are time and space. In terms of time, a triggering event may come with warning (hurricane) or without warning (chemical leak). Its duration may be finite (earthquake) or open-ended (pandemic). Similarly, an event can occur in a specific place (terrorist attack on a landmark) or propagate beyond a defined boundary (malicious computer code). In the case of Katrina, national weather forecasters accurately predicted the timing, location, and intensity of the storm prior to its landfall

and urgently communicated their findings to government officials and the general public (a “warned” event).

In one of the largest and most successful evacuations in U.S. history, many gulf coast residents heeded official orders to vacate their homes and travel outside the path of the storm. Local, state, and Federal agencies took steps to prepare for the expected disaster, prepositioning resources and alerting responders. Incident managers took advantage of pre-storm connectivity to coordinate via email, teleconference, and video conference. However, government officials at all levels were unprepared for the consequences of the New Orleans levee breaks. The breaks inundated 80 percent of the city with floodwater, incapacitated first responders, and stranded the 20 percent of residents who had not evacuated. The breaks pushed the status of Katrina from a bad storm to a catastrophic incident. Immediate requirements for life-sustaining capabilities quickly outstripped available resources, creating a gap of unfulfilled need.

Several challenges contributed to growth of the gap and inhibited rapid response. Most significant was that policy and law placed the Federal Government largely in a supplemental (pull system) role for natural disasters. Federal law (the Constitution, Stafford Act, and Insurrection Act) put state leadership at the center of incident management and tied Federal response to specific state requests. The overall relief effort was framed by the National Response Plan (NRP), which called for a sequential reaction: local, then state, then Federal. Department of Defense (DOD) policy regarding defense support of civil authorities (DSCA) had been to provide assistance “to Federal, state and local responders only when civilian capacities become overwhelmed.”<sup>1</sup> Additionally, the traditional reliance of disaster professionals on local knowledge and on-scene management—reinforced by years of successful response to noncatastrophic natural disasters—contributed to a culture of “wait until asked.” In other words, state and Federal officials were reluctant to anticipate the needs of local responders. Other elements that interfered with a rapid effective response included the following.

*Situational Awareness.* Poor situational awareness resulted largely from reliance on

first responders and electronic connectivity for information. The loss of infrastructure and the lack of interoperable systems inhibited communications between surviving responders and incident managers. As a result, government officials were initially unable to piece together a comprehensive understanding of conditions in New Orleans immediately following the levee breaks.

*Immediate Response Authority.* According to the NRP, only local chief executives or state Governors could request higher level assistance when their own “capabilities have been exceeded or exhausted.”<sup>2</sup> Furthermore, among Federal agencies, DOD was dubbed the “heavy lifter of last resort” with respect to domestic disasters. President George W. Bush requested then-Secretary of Defense Donald Rumsfeld to “lean forward” in preparing to provide assistance to the gulf region, but it was a week before DOD was able to put a significant number of boots on the ground.

*Unity of Effort.* The extent of devastation made it difficult to achieve unity of effort. Each affected state dealt with its own Federal Coordinating Officer (FCO) appointed by the Director of the Federal Emergency Management Agency (FEMA), on behalf of the President, to coordinate Federal assistance during a disaster or emergency. Under the NRP, a Principal Federal Official (PFO) could be assigned to an incident of national significance to serve as the local representative of the Secretary of the Department of Homeland Security (DHS) and to assist with efforts to coordinate Federal response assets. Since the PFO had no authority over the FCOs or any other element in the Joint Field Office (JFO),<sup>3</sup> misaligned effort between states had to be resolved in Washington. National Guard forces reported to the individual Governors via the state adjutants general (state Active duty, later in Title 32 U.S.C. status). Federal military forces (Title 10 U.S.C.) reported to Lieutenant General Russel Honoré, USA, commanding general of Joint Task Force Katrina. This resulted in parallel, independent military chains of command.

*Incident and Resource Management.* The National Incident Management System had not been fully implemented before Hurricane Katrina, complicating the response. Only 2 of 23 supporting plans were finalized, and there were no national standards specifying responder qualifications, certifications, and credentials. Many key managerial positions within the JFO in Baton Rouge, Louisiana, were manned by personnel who were not

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yet trained in the procedures of the Incident Command System, a fundamental component of the National Incident Management System. Within the military, standard processes for requesting and deploying forces did not keep pace with the demands.

**Homeland Security Exercises.** National exercise programs did not adequately prepare Federal, state, and local agencies for a catastrophic natural disaster. From May 2000 to April 2005, only three Top Official exercises were conducted, and all featured terrorist-related scenarios. Although these exercises had many participants, the training audience was limited to personnel from six states, none of which was affected by Hurricane Katrina, and few officials at the secretary or under secretary level participated.

**Public Communications.** With the exception of National Hurricane Center warnings prior to landfall, public communications failed to inform, guide, or assure the American public during the early stages of the catastrophe. No single trusted and knowledgeable spokesman quickly emerged as did the mayor of New York City during the 9/11 crisis. Additionally, the lack of a national communications strategy contributed to the government's inability to shape the information environment. As a result, the media sometimes provided inaccurate and misleading accounts of unfolding events, hindering relief efforts.

### Gap of Pain

Hurricane Katrina triggered the first full-scale activation of the NRP, which was designed to cope with incidents of national significance. The plan codified a sequential

approach that had proven effective for non-catastrophic events, such as forest fires and most hurricanes. However, this model proved totally inadequate for a disaster on the scale of Katrina. Although the national response to the hurricane was the largest of its kind in U.S. history, the delay of several days in providing large-scale assistance to New Orleans—and the initial absence of a unified strategy for dealing with the disaster—contributed to the suffering of the people remaining in the city and caused anguish throughout the country.

*the media sometimes provided inaccurate and misleading accounts of unfolding events, hindering relief efforts*

The sequential nature of catastrophic incident response is shown in the figure below. Individual communities have local and first responder capabilities in the form of police, fire, medical, and emergency management workers typically manned and funded to deal with the events of daily life. When a catastrophic event occurs, the effort required of these first responders skyrockets. At the same time, responders may become victims themselves or lose their ability to assist the public. Moreover, it may take time for state agencies to fully grasp the magnitude of the disaster, begin to allocate their own resources, and request help from the Federal Government or from other states through assistance compacts. Finally, when resources are identified outside the disaster area, it takes time to deploy and integrate them into the overall response.

The result is that some needs go unfulfilled for a time. This period is best described as a “gap of pain,” as shown in figure 1. In the context of Hurricane Katrina, this included victims sitting on rooftops awaiting rescue, hospitals unable to provide basic medical services, and civil disorder in the form of extensive looting and other crimes of opportunity.

This gap of pain may last hours or days depending on several factors:

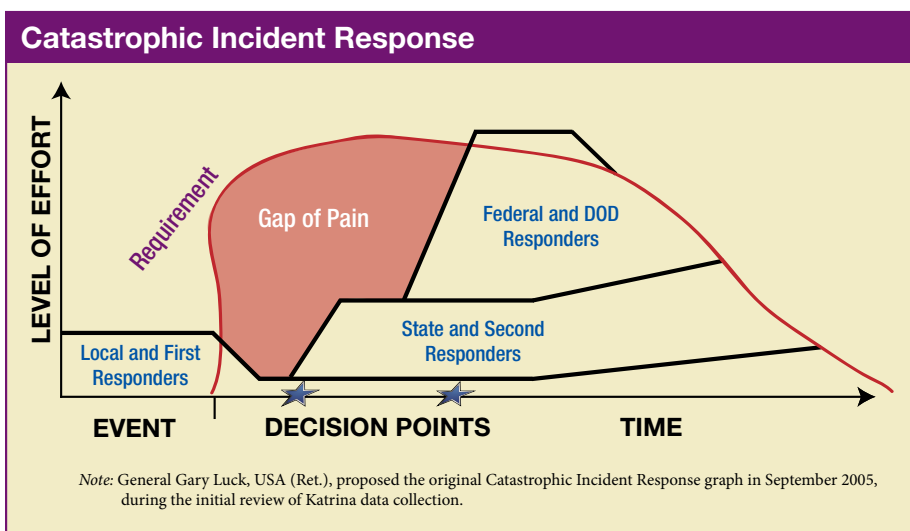
- type of catastrophe
- extent of pre-event warnings and preparations
- actions of an affected populace
- willingness and ability of government agencies to deploy resources in advance of an event.

The gap is also affected by the capability of local and state officials to understand the situation in their area and request resources to respond to the catastrophic incident. The capability of government officials to understand the situation can be greatly affected when the communication infrastructure suffers extensive damage, as was the case following Katrina. Ideally, response challenges can be mitigated, unfulfilled needs met, and the gap of pain reduced in size and time.

There are three basic approaches to closing the gap. State and Federal officials can accelerate the timing of requests for assistance (RFA) and requests for forces (RFF) by enabling earlier decisions and improving decision processes. Response agencies can alter capabilities by posturing more resources or by moving existing resources more quickly. Finally, the U.S. Government and public can change the shape of the response gap by decreasing the need for external assistance through better preparation and early intervention.

### Recent Reforms

Reforms to national plans and capabilities have been initiated by local, state, and Federal governments, as well as within the private sector and by nongovernmental organizations. These improvements reflect all three approaches to closing the gap. This section summarizes the reforms enacted in 2005 and 2006, focusing on actions taken by the Federal Government. Again, these examples are illustrative and not intended as a comprehensive report card of post-Katrina corrective actions. Discussing these changes



within the Catastrophic Incident Response framework will demonstrate how they can be used to reduce the gap in both a *warned* and an *unwarned* scenario.

**Disaster Framework.** National incident management and command and control structures are fundamentally unchanged since Katrina. In most cases, Governors must still request Federal assistance before it can be provided. Additionally, these national structures continue to rely on interagency and intergovernmental coordination to manage response activities at the regional and national levels; incident command is only used for on-scene emergency management.

With respect to military organization, unity of command is still unlikely unless the President invokes Chapter 15 of Title 10 (Insurrection Act). The National Guard has continued reorganization into state joint force headquarters, and the National Guard Bureau has trained “dual status” Title 10/32 (Federal/state) commanders. However, this concept of operations has never been implemented in a disaster response, and Governors remain reluctant to cede control of National Guard forces to Federal command.

**Effect on the gap:** none. This continues to be an issue in interagency reform discussions.

**Triggers for Response.** The NRP’s catastrophic incident guidance and FEMA’s pre-landfall policy for major hurricanes have been clarified. The Catastrophic Incident Annex was primarily designed to address catastrophic events involving little or no warning, such as chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) weapons of mass destruction or large magnitude earthquakes. The annex was modified in May 2006 to encompass other incidents projected to have catastrophic implications (for example, a major hurricane). This change permitted the Federal Government to proactively respond to warned catastrophes by predeploying tailored packages and resources. This early execution policy saw its first use in August 2007 as Hurricane Dean briefly threatened to make landfall along the Texas coast as a Category 5 storm.

In addition, in June 2006, FEMA issued interim policy guidance for major hurricanes. It clarified the circumstances under which a state would be considered for a Presidential emergency declaration prior to landfall.<sup>4</sup> In effect, this allows initiation of a Stafford Act/NRP-based response before a triggering event

occurs. There are financial and opportunity costs associated with such a decision, so it is not to be taken lightly.

**Effect on the gap:** warned scenario—accelerate decisions; unwarned scenario—not applicable. Given warning, these changes provide for expanded use of existing plans and allow incident decisions to be made prior to an event while connectivity is still robust.

**Authorities.** The response authorities of the Principal Federal Official and regional combatant commanders have been enhanced since Katrina. According to the Stafford Act, the Federal Coordinating Officer is primarily responsible for managing and coordinating Federal resource support activities during disasters and emergencies. As noted above, a PFO had no authority over Federal, state, or local partners and could not direct FCOs. As a result of the perceived weakness of the PFO role during the initial stage of the Katrina response, the NRP was changed to allow the DHS secretary to combine the roles of the PFO and FCO, except in terrorism cases.<sup>5</sup>

To improve the timeliness of DOD support, the Secretary of Defense has pre-approved a set of actions that a combatant commander may take to initiate a response. This all-hazards-based execution order

permits the deployment and use of certain assets for up to 20 days at a combatant commander’s direction (for example, identifying staging bases or moving defense coordinating officers to forward locations). It also grants authority to place a larger number of assets in a prepare-to-deploy order status for up to 7 days. Actual use of forces placed on this status requires notification of the Secretary of Defense.<sup>6</sup>

**Effect on the gap:** warned and unwarned scenario—move up decision points, shorten decision processes, provide resources faster. Both of these actions move decision points closer to a triggering event. The DSCA execution order also identifies a set of capabilities that can be preplanned for more rapid deployment/employment. This execution order was used in August 2007 in anticipation of Hurricane Dean’s landfall in Texas. As a result, helicopter, communications, and public affairs resources were prepared to deploy within 24 hours of notification.

**Situational Awareness.** The Federal Government has taken a number of steps since Katrina to improve its Incident Awareness and Assessment (IAA) capabilities. DOD and DHS have established new IAA collection management organizations and concepts of operation. Aerial surveys are being undertaken to establish a pre-event baseline of hurricane-prone coastal areas, and IAA collection assets, belonging to the Air Force and Civil Air Patrol, have been predesignated for disaster response missions.

### *Governors remain reluctant to cede control of National Guard forces to Federal command*

Army trucks offload from Air Force C-5 at Hulman Field during exercise Ardent Sentry



181st Fighter Wing (John S. Chapman)

At ground level, newly created DHS Situational Awareness Teams and U.S. Army North scouts should provide Federal officials with an early understanding of local disaster needs and capabilities. Other measures have been taken (such as the signing of a Standing Proper Use Memorandum for national and commercial imagery) to ensure that IAA information is distributed to proper response agencies

Effect on the gap: warned and unwarned scenario—moves up decision points through more complete situational awareness. Changes provide baseline data for change detection and a means for collection and dissemination.

*Coordination and Communications.* Disaster coordination structures and communications capabilities have improved to some extent, although interoperability continues to be a challenge. A 2006 change to the NRP allowed multiple Joint Field Offices to be established in the event of a multistate disaster, with one of the JFOs coordinating the overall incident management effort. Another revision to the NRP called for the DOD joint task force headquarters to collocate with the JFO whenever possible.<sup>7</sup> Additionally, DHS assigned five teams (27 officials) to coordinate the Federal Government's role in preparing for, and responding to, major natural disasters during the 2006 hurricane season. For its part, DOD assigned a full-time Defense Coordinating Official and Defense Coordinating Element to each FEMA regional headquarters to assist with planning and logistics movement.

To improve communications and information-sharing, representatives from DHS, DOD, and the private sector have been cooperating on connectivity restoration. One long-term goal is to create a public/private structure for communications reconstitution similar to the Civil Reserve Airlift Fleet. In the meantime, FEMA and U.S. Northern Command have established standardized flyaway communications packages for disaster response elements.

Effect on the gap: warned and unwarned scenario—better regional coordination and communications can be expected to hasten the delivery of response capabilities.

*Resources.* In 2006, DHS and DOD made a concerted effort to increase the availability of disaster commodities and improve logistics planning and procedures. According to FEMA, the available quantity of meals-ready-to-eat (MREs) has increased four-fold

over those on hand prior to Katrina (enough to feed 1 million people for 1 week). DOD helped FEMA to draft a logistics concept of operations, deployed logistics specialists to hurricane regions, and readied its depot infrastructure for the supply, storage, and distribution of Federal relief assets.

To speed the approval process for commonly requested support (for example, helicopters, communications packages, staging bases), generic FEMA mission assignments have been drafted and costs estimated in advance. This concept of pre-scripted mission assignments has expanded beyond DOD-centric capabilities. These assignments are now in place for several of the NRP emergency support functions—the organizational structures that consolidate multiple agencies performing similar functions into a single unit under the auspices of the JFO. Upon identification of local need, the JFO simply fills in incident-specific information and submits the request for sourcing to the Defense Coordinating Officer in the case of DOD requests for assistance.

Approximately 25,000 Active duty forces were made available for hurricane response operations in 2006, including four FEMA support packages (provided by U.S. Joint Forces Command) that could be put on a weeklong prepare-to-deploy order.<sup>8</sup> The National Guard spent \$900 million on new communications and transportation equipment. It also borrowed \$500 million worth of equipment from the Active duty military to restock its units for civil support missions. The Guard shifted thousands of trucks, Humvees, and other supplies to states where storms were considered more likely to strike. Increased supplies can present challenges as well. For example, as many as 6 million MREs stockpiled near potential hurricane victims in 2006 reportedly spoiled because of a shortage of warehouse and refrigeration space, and FEMA had to dispose of thousands of pounds of ice.<sup>9</sup>

Effect on the gap: warned and unwarned scenario—raises level of state and Federal capabilities available for use in a response.

*Preparedness.* The devastation caused by Hurricane Katrina increased awareness of the need for improved disaster preparedness in general and hurricane preparedness in particular. DHS conducted an assessment of catastrophic plans with 131 states and urban areas (to include focus on the Nation's 75 largest urban areas).<sup>10</sup> Federal, state, and

local officials worked to plug holes in gulf state hurricane plans. Using Louisiana as an example, the Federal Government prepared to help move up to 80,000 people by bus and 61,000 by plane or train—almost everyone in the region without cars, including tourists. In addition, DOD provided contracting and logistics planning support to FEMA. This included contracts with suppliers to deliver diesel fuel and gasoline for generators and vehicles along hurricane escape routes.<sup>11</sup>

Disaster response exercises conducted by Federal, state, and local governments in 2006 fostered collaboration among responder organizations. These included Ardent Sentry 06/Positive Response 06-2, sponsored by U.S. Northern Command and the Joint Staff, which were aligned with Arizona and Michigan state exercises, and the DHS Hurricane Preparedness Tabletops, involving 5 FEMA regions, approximately 20 states, and numerous state, Federal, military, and private participants. A common theme in all these exercises was the need for a coherent public communications strategy that fostered citizen

*FEMA and U.S. Northern Command have established standardized flyaway communications packages for disaster response elements*



Coast Guard rescue swimmer prepares elderly couple for transport to safety

awareness *prior* to a major incident and filled the information void as early as possible after the event.

Effect on the gap: warned scenario—change the requirement; unwarned scenario—no major effect. Significant focus on hurricane preparedness did not enable major planning and education campaigns in other areas of the country. However, the DHS 2007 Spills of National Significance exercise is aligned with the New Madrid Seismic Zone through the Midwestern states and should assist in this area.

**Legislative Change.** The National Defense Authorization Act for fiscal year 2007 contained a revision to the Insurrection Act that could have major consequences for the national response to catastrophic events. These changes provide explicit Presidential authority to deploy Federal armed forces, including federalized National Guardsmen, in response to a Katrina-like catastrophe. This may be done without a Governor's consent if the President determines that "domestic violence has occurred to such an extent that the constituted authorities of the State or possession are incapable of maintaining public order."<sup>12</sup> The law *seems* to strengthen the Federal Government's power to direct the national response in certain catastrophic situations. If invoked, it could serve to align the total military response under one Active duty

commander, achieving unity of command and contributing to the government's overall unity of effort.

However, at the time of the writing of this article, efforts were under way in Congress to repeal the revision to the Insurrection Act and to return the situation to the status quo ante—with the strong support of most of the state Governors and National Guard adjutants general.<sup>13</sup>

Effect on the gap: to be determined. This defines an additional situation that allows direct Federal intervention without a state request (altering the state-to-Federal decision point). But follow-on policy, planning, and training are not yet available to analyze the potential use of this authority.

The Nation has made significant strides throughout 2006 in preparing to respond to a major warned event. The gap of pain should be substantially less than it was during the Katrina response. However, the country's ability to respond to an unwarned disaster is less clear. Many of the improvements would apply to an unwarned event, but several factors complicate response to such a catastrophe. Response capabilities could not be put in motion prior to an event. Loss of connectivity and infrastructure still inhibit local and state government awareness and ability to communicate needs to external providers. While the 2006 focus on hurricane preparedness

likely decreased post-incident requirements on the gulf and east coasts, it has done little to improve civil preparedness throughout the rest of the country. Thus, the gap of pain would probably be greater for a major event without warning, such as an earthquake or a large-scale CBRNE incident.

### Continuing Issues

Although the Nation's domestic response capabilities have improved, several issues need to be addressed before the United States can be confident that it is adequately prepared for the full range of potential major disasters.

**Sustaining Preparedness.** Reforms must be institutionalized within the disaster response community. Simply writing changes into a plan is not sufficient; changes must be trained and exercised to verify achievability. Furthermore, it is uncertain whether the high level of national disaster preparedness observed thus far can be sustained over the long term. History would suggest a substantial decline of interest in disaster reform within

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*a revision to the Insurrection Act seems to strengthen the Federal Government's power to direct the national response in certain catastrophic situations*

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Rescue personnel in U.S. Coast Guard airboat search for survivors in New Orleans

1<sup>st</sup> Combat Camera Squadron (Michael E. Best)

the next few years unless another catastrophic event occurs (out of sight, out of mind).

**Collecting and Sharing Information.** The tools and processes associated with collecting and sharing disaster-related information remain underdeveloped. Key stakeholders still operate in different domains. The Internet-based Homeland Security Information Network is intended as the primary network to coordinate incident management. But DOD joint task forces and combatant command headquarters are still geared toward classified networks for coordination, command, and control. The Homeland Data Sharing Program, designed to provide common information elements and data standardization, is incomplete, as is the unclassified Common Operating Picture for the Federal Government and states. Imagery is the only technical collection means with an established state/local dissemination policy.

**Matching Military Capabilities with Civilian Requirements.** The DSCA requests for assistance/request for forces process

lacks certain elements, such as a detailed standard operating procedure for handling RFA, a centralized mechanism for tracking of forces/resources from point of need to point of delivery, a clear structure for prioritizing simultaneous/competing needs among states and regions, and funding sources for forces to “lean forward” before a disaster occurs. Pre-scripted mission assignments may not be sufficient for certain time-critical capabilities, such as Incident Awareness and Assessment and aeromedical evacuation. Actions ensuring greater visibility of National Guard and Title 10 force deployments stop short of establishing a single DSCA force provider. Finally, dedicating a portion of DOD’s finite resources to domestic response missions remains an important concern given the military’s global commitments.

*Open-ended Disasters.* The Nation has not fully addressed catastrophic events that are open-ended. A pandemic, for example,



Homeland Security Secretary and FEMA administrator receive reports of FEMA readiness regions via videoconference

poses a different kind of a disaster challenge because it is potentially less bounded in both time and geographic scope. While responses to most types of disasters focus on getting resources to the people who need them quickly, response requirements for a pandemic may affect the entire country and initially exceed national resources. In this case, early intervention would be a key tool in helping to stop a pandemic in its tracks. Most importantly, preparing the public is critical to slow the spread of disease and reduce the secondary and tertiary effects of a pandemic.

The traditional approach to disaster response has been to overwhelm the problem with additional resources. U.S. Joint Forces

Command’s studies of the national response to Katrina have shown several mutually reinforcing approaches to closing the gap of pain. The dominant metric for most of these approaches is *timeliness*, not *quantity of resources*. Furthermore, response timeframes are measured in hours and days, not weeks. The keys to meeting local and state requirements for rapid external assistance (that is, Federal Government and DOD) are shared situational awareness and multi-jurisdiction collaboration.

The burden for ensuring effective disaster response falls primarily on local and state governments and civilian Federal agencies. With its global responsibilities and warfighting orientation, DOD should provide surge capacity, not the majority of initial resources for domestic response operations. That said, the uniformed Services (including the Coast Guard and National Guard as well as DOD) provide powerful and visible response capabilities. Their utility in domestic catastrophes is undeniable. Their performance, in coordination with other elements of the national response, must continue to be honed. For catastrophic incidents, however, completely closing the gap of pain may not be feasible. Efforts to manage public expectations and promote individual responsibility for all contingencies must continue. In time, the United States will likely face another disaster on the scale of Hurricane Katrina. **JFQ**

## NOTES

<sup>1</sup> Donald H. Rumsfeld, testimony before the Senate Appropriations Committee, May 2002.

<sup>2</sup> Department of Homeland Security (DHS), *National Response Plan* (Washington, DC: DHS, December 2004), 8, available at <[www.dhs.gov/xlibrary/assets/NRP\\_FullText.pdf](http://www.dhs.gov/xlibrary/assets/NRP_FullText.pdf)>.

<sup>3</sup> The FCO, not the PFO, manages Federal resource support activities related to Stafford Act disasters and emergencies. See *National Response Plan*, 34.

<sup>4</sup> Such circumstances included a state of emergency declared by the Governor, a projection by the National Weather Service that the state would be threatened by a major hurricane, plus either the issuance of mandatory evacuation orders to a substantial number of people or a determination that state resources would be overwhelmed without Federal support. The prerequisites for a Federal emergency declaration remain the same: a state emergency declaration and a Governor’s request to the President. Additionally, a state’s pre-landfall disaster declaration in no way obligates

the President to approve a declaration request. See Federal Emergency Management Agency Fact Sheet, “Hurricane/Typhoon Pre-Landfall Policy,” June 16, 2006, available at <[www.fema.gov/media/fact\\_sheets/pre-landfall.shtm](http://www.fema.gov/media/fact_sheets/pre-landfall.shtm)>.

<sup>5</sup> In instances where the PFO has also been assigned the role of the FCO, deputy FCOs for the affected states will be designated to provide support to the PFO/FCO and facilitate incident management span of control. See DHS, *Notice of Change to the National Response Plan* (Washington, DC: DHS, March 25, 2006), 33–34.

<sup>6</sup> Assets that may be placed on 24-hour prepare-to-deploy-order status include helicopters; command, control, and communications support; patient movement capability; assessment teams; joint task force headquarters; and medical and logistical support elements.

<sup>7</sup> When it is impracticable for the joint task force headquarters to collocate with the JFO, the headquarters is obliged to connect virtually with, and assign liaisons to, the JFO. See *Notice of Change to the National Response Plan*, 28, 42.

<sup>8</sup> Sebastian Sprenger, “Pentagon Identifies Forces for Hurricane Response Operations,” *Inside the Pentagon*, August 31, 2006.

<sup>9</sup> Spencer S. Hsu, “Tons of Food Spoiled As FEMA Ran Out of Storage Space,” *The Washington Post*, April 13, 2007, A1, available at <[www.washingtonpost.com/wp-dyn/content/article/2007/04/12/AR2007041202411.html](http://www.washingtonpost.com/wp-dyn/content/article/2007/04/12/AR2007041202411.html)>; and “FEMA to Melt Ice Stored Since Katrina,” CBSNews.com, July 15, 2007, available at <[www.cbsnews.com/stories/2007/07/15/national/main3058982.shtml](http://www.cbsnews.com/stories/2007/07/15/national/main3058982.shtml)>.

<sup>10</sup> The DHS review concluded that officials at all levels were working “to strengthen plans and formalize mutual aid agreements.” But catastrophic disaster planning suffered from “outmoded planning processes, products, and tools.” Only 27 percent of the states and 10 percent of the cities were evaluated as adequately prepared to cope with a catastrophic event. See DHS, *Nationwide Plan Review, Phase 2 Report* (Washington, DC: DHS, June 16, 2006), xi–xii.

<sup>11</sup> Eric Lipton, “Despite Steps, Disaster Planning Still Shows Gaps,” *The New York Times*, August 26, 2006.

<sup>12</sup> National Defense Authorization Act for Fiscal Year 2007, 10 U.S.C. §§331–335, updated October 2006.

<sup>13</sup> For a detailed analysis of the political maneuverings over the revision to the Insurrection Act and their legal implications, see Emery Midyette, “An Analysis of the 2006 Revision to Chapter 15 of Title 10 of the United States Code,” *Joint Center for Operational Analysis Journal*, September 2007.

FEMA search team loads semi-rigid boat aboard CH-47 headed for areas devastated by Hurricane Katrina

# The Science and Art of Disaster Response by the National Guard

By CHARLES G. RODRIGUEZ

C-5 delivers fire and rescue equipment at Louis Armstrong International Airport in New Orleans to support Joint Task Force Katrina

1<sup>st</sup> Combat Camera Squadron (Jacob N. Bailey)

**R**esponse to a domestic emergency to save life, limb, and property of citizens is one of the fundamental roles of government at all levels, but especially at state and local levels. The domestic mission, including the continual development and refinement of doctrine to protect the homeland and its citizens, justifies at least as much emphasis as overseas military operations. This article suggests basic tenets for the military's contribution, particularly that of the National Guard, to an emergency response; highlights the importance of collaborative and unified efforts by all involved, both civilian and military; and summarizes evolving organizational concepts that might enhance such civilian-military collaboration.

Homeland security, homeland defense, and community preparedness have something

in common with military affairs: all are both science *and* art. Traditionally, the military has attributed great value to adhering to commonly accepted and directed ways of doing business (that is, doctrine). The *science* is this doctrine and its evolutionary refinement, supported by policies, instructions, and standard operating procedures. Through training and exercises, the translation of doctrine into practice and habitual behavior becomes reality.

But more than simply science is required for unified effort and readiness. There is also *art*, which combines experience with wit and inspiration, resulting in preparedness. While one should never depend exclusively on the intuitiveness of art, one shortchanges success by not incorporating it into emergency response preparations and operations. Without the art, there is no passion and no creative initiative to transcend the gaps in knowledge that science inevitably presents.

Lieutenant General Charles G. Rodriguez, ARNG, is the Adjutant General for the State of Texas.

USNORTHCOM (Chuck Prichard)

## Requirements

In any emergency, local responders converge and surge early, but then drop off as fatigue sets in after a few days. Also, many first responders need to be relieved to care for their own impacted families and households. Mutual aid from adjacent geographical jurisdictions restores some of the first responder numbers. However, for major disasters, requirements far exceed the available first responder capability.

Initially, statewide civilian mutual aid and National Guard forces are dedicated to damage assessment to ensure that subsequent response is focused and calibrated. However, damage assessment is a key step that habitually is not done well. There is no universally accepted process about how to do quick-look assessments, so typically responders default

to a best guess method based on information received and interpreted by both experienced and novice response coordinators. Part of the challenge is that multiple entities at various levels of government (local, regional, state, and Federal, civilian and military) are engaging in uncoordinated but simultaneous damage assessments, just as they may engage in uncoordinated responses.

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to a best guess method based on information received and interpreted by both experienced and novice response coordinators. Part of the challenge is that multiple entities at various levels of government (local, regional, state, and Federal, civilian and military) are engaging in uncoordinated but simultaneous damage assessments, just as they may engage in uncoordinated responses.

There should be an aversion to such piling on by authorities; the assessments should be part of a common operating picture. Only the appro-

priate number and type of responders can properly mitigate a disaster. Too much of the wrong kind of help, in the wrong place, only complicates relief and multiplies the disaster's effects. The National Guard nationwide, always in support of civilian authorities, provides its Civil Support Teams and fly-away mobile communications teams to local civilian disaster coordinators, staffs headquarters during this initial assessment phase, and continues this support, as required by the state, as a continuous part of the disaster response process.

The National Guard is often responding before a predicted event, such as hurricane landfall, by precoordinating and prestaging interagency strike teams to locations where they might immediately go to work, fully stocked to provide timely relief. In Texas, the Guard entity

is the Texas Military Forces (TXMF), which consists of the adjutant general's department, Texas Army National Guard, Texas Air National Guard, and Texas State Guard (a volunteer state militia authorized in Texas law). For Hurricane Rita, the TXMF and the Governor's Division of Emergency Management developed mass care strike teams in military vehicles, working with the Federal Emergency Management Agency (FEMA), which provided com-

modities, food, water, and medical teams. These teams were prestaged on the west side of Houston and rolled into Beaumont as soon as the storm passed.

As state and National Guard responses increase, their efforts may be augmented by Emergency Mutual Assistance Compact (EMAC) resources from sister states. It was through EMAC and with the TXMF in state Active duty status that a deployment to New Orleans was executed within hours after Katrina's landfall. The Superdome was secured and evacuated by city officials, with the help of the Texas Army and Air National Guard security forces, before the first Federal troops arrived. The calming presence of citizen-Soldiers who responded rapidly and early is important to assuring public order. The state-to-state EMAC process has proven the fastest, most efficient, and most effective way of augmenting a response with both civilian and state military resources. The real challenge for EMAC in the future may come from a nationwide biological event, such as a pandemic, or a national or regional catastrophic event, such as a New Madrid Fault scenario or another cross-border mass migration crisis in which

**FEMA Region VII director and the Adjutant General of Kansas in Greensburg, Kansas, monitor cleanup efforts after the town was struck by an F5 tornado**



Federal Emergency Management Agency (Greg Hershall)

capabilities are so degraded or resources so stretched that states are precluded from fully sharing their assets.

National aid would be triggered for special requirements and capabilities that cannot be satisfied by local, regional, or state civilian and military responders. During Rita, U.S. Northern Command (USNORTHCOM) led the effort in coordinating several specialized response capabilities such as evacuation of special needs patients on Air Force C-5 and C-130 aircraft with specialized Active duty Air Force medical teams; air space management from First Air Force; and liaison with Army Corps of Engineers experts monitoring near-capacity dams.

There was no requirement for general purpose Title 10 Federal ground forces in Texas during the response to Hurricane Rita. The TXMF committed approximately 5,000 troops between mid-September and mid-October 2005. Despite the fact that the TXMF had more than 5,000 troops deployed out of country at the time, there was still a reserve of more than 5,000 uncommitted within the state. Typically, there will be no real requirement for Federal ground troops, just for specific, specialized combat support and combat service support packages that are based on time-sensitive requirements that exceed the capabilities of a state's civilian and military assets. As much as possible, these special-purpose packages should be precoordinated with the force-providing Active component units to preclude the insertion of unnecessary personnel, which could complicate already functioning control and coordination structures managing reception, staging, onward movement, and integration for state and local mutual support operations.

## Emergency Response Tenets

This overview about the science and art of emergency response leads to the following tenets for military responders:

- Preposition personnel, equipment, and commodity teams close to the incident.
- Provide early, rapid, and visible presence after the event.
- Support civil authorities, always allowing civilian authorities to lead.
- Refresh and rotate the response force.
- Assure a consistent public face: the Governor leads, the military delivers.

These five tenets spring directly from decades of hurricane, wildfire, flood, and other disaster response in Texas. The first three have

already been addressed. The fourth—resource refreshing and rotation—applies to deployments involving extended duty. A rule of thumb is to plan rotational relief of heavy-use search and rescue troops after 7 to 10 days. Those performing labor-intensive distribution and transportation of commodities and extended-shift support to law enforcement should be rotationally relieved after 2 or 3 weeks. This requires a flow-forward of fresh personnel and a reconstitution site or series of sites to sustain a ready and rested force—an essential task.

The fifth tenet is perhaps the most important. The success of a disaster response is measured in lives saved, property safeguarded, and nurturing of the public perception that civilian authorities indeed are in control and are delivering relief as proactively as possible. Aggressive public affairs and routine media messaging are essential. The lead civilian authority should speak regularly during a crisis. If the emergency is medical or technological in nature, the lead health authority or the other most relevant official should speak. When military leaders can appear in the media, they should. The most important “calming presence” messages that should be delivered include the local disaster response authority (usually the mayor or Highway Patrol captain) describing the type and timing of assistance being delivered to impacted areas. The military should never upstage or speak out of step with the lead civilian authority. For statewide response, the senior civilian authority is the Governor.

## JIIM Partnerships

Citizens are not well served if disaster response is not based on the joint, interagency,

intergovernmental, and multinational (JIIM) partnership. JIIM is a disaster response imperative. Similar to peace support operations overseas, if domestic operations are not based on JIIM partnership, the operations are suboptimal. It is wasteful and counterproductive not to engage early and regularly with civilian and military partners who, acting synchronously, provide valuable mutual assistance to one another.

A current example of JIIM is the ongoing support to various Southwest border security operations. Operation *Jump Start* began in May 2006 and engaged more than 1,500 TXMF personnel during its first year along 1,200 miles of international border with Mexico. TXMF personnel are continuing to assist the U.S. Customs and Border Patrol as well as the Department of Homeland Security. In addition, Operations *Rio Grande* and *Wrangler*, in which the TXMF provides planning and operational coordination support, dates back to 2005. Conducting random antiterrorism measures with county sheriffs, Department of Public Safety law enforcement agents, and other state agency representatives, the TXMF has provided aviation support and technical security assistance to the Texas Governor's interagency, intergovernmental missions. The TXMF has a 17-year history of conducting support activities with law enforcement agencies (local, state, and Federal) through the National Guard's counterdrug mission. In 2006, Operation *Rio Grande* alone is credited with reducing crime by up to 65 percent in areas where TXMF presence and coordinated antiterrorism missions have been executed, including the Del Rio, Laredo, El Paso, and Rio Grande Valley areas.

Also representative of JIIM work is the historic precedent of September 2006, when the TXMF was designated by the Governor's Division of Emergency



**Above:** Texas National Guard vehicles distribute food and water to victims of Hurricane Rita

**Right:** Convoy moves troops through flooded streets for search-and-rescue mission in New Orleans



Management as the lead state agency for planning and training coordination for the Lower Rio Grande Valley Evacuation Plan. This effort required the TXMF team to interface with local, regional, state, law enforcement, medical, transportation, fuel logistics, public school, and other elected and appointed authorities to knit together a comprehensive hub-and-spoke plan to evacuate Brownsville by caravans of buses before hurricane landfall. Texas' emergency response leaders rely heavily on TXMF members' proficiency as planners, trainers, and operators to develop practical plans and provide disaster response training across the state's interagency structure.

As Major General Guy Swan III, USA, Director of Operations for USNORTHCOM, has said, "Knowing all the military and civilian players before a disaster strikes is the key to success." Working together from the planning stage through the execution stage, civilian and military communities can make interagency cooperation a routine practice.

The notion of multinationality was evident during the responses to Hurricanes Katrina and Rita. The TXMF has a special training relationship with the Singapore air force, and some of the visiting CH-47 Chinook pilots live with families in the Dallas area and train with Texas Guard rotary wing aviators in their own Singaporean Chinooks. In the aftermath of Hurricane Katrina, Singapore's helicopters deployed to New Orleans under the oversight of TXMF pilots and helped in the levee repair and evacuation missions. It took many intermediate partners to bring this

about, such as USNORTHCOM, the State Department, and the courageous pilots of the Singapore air force. This was multinational assistance in action.

In the immediate aftermath of Hurricanes Katrina and Rita, Louisiana evacuees in Central Texas received magnificent support from the Mexican army, which provided a large capacity field kitchen and medical assistance for the sprawling Kelly Army mass shelter complex in San Antonio. The TXMF provided the U.S. military command post on-site and some of the interpreters that made the support of the Mexican army there so seamless. Texans genuinely appreciated the selfless support provided by their Mexican counterparts, and this partnership was made possible through the good offices of many Federal and state partners. However, such multinational support should be precoordinated and embedded in evolutionary contingency plans on both sides of the border.

sion of the joint activity toward which the National Guard Bureau is transforming. The February 2006 Townsend Report on Hurricane Katrina highlighted the appropriateness of the state JFHQ serving as a logical platform for both hosting a common operating picture and acting as headquarters for coordinated civilian-military unity of effort in future domestic disaster responses. The Joint Force Headquarters-Texas (JFHQ-TX) now prepares itself for unified command with local, state, Federal, and even Active component (Title 10) forces in order to assure unity of effort in domestic disaster response. Additionally, the JFHQ-TX has commenced active dialogue and familiarization exchanges with the FEMA-run joint field office, the regional home for Federal disaster response leaders.

The JFHQ-TX mission and commander's intent (see figure), taken together, are essentially a mandate to make JIIM work. In order to help participants to understand fully the

### *Texas' emergency response leaders rely heavily on TXMF members' proficiency as planners, trainers, and operators*

#### **JFHQ-State**

Today, JIIM is most important when it comes to contingency response or disaster relief missions; and the state's joint force headquarters (JFHQ) is a key part in implementing tenets of disaster response, making JIIM work, and realizing the necessary unity of effort and common operating picture.

Soon, the JFHQ in each of the 54 states and territories will be designated as an exten-

sion of the joint activity toward which the complexities of the National Incident Management System (NIMS)/Incident Command System (ICS) operational environment, the Texas adjutant general requires all joint staff officers, noncommissioned officers, and civilian employees of the JFHQ-TX to complete several FEMA online courses covering the National Response Plan, NIMS, ICS, Emergency Operations Center, and continuity of operations, as

USS Bataan Public Affairs (Chris Gettings)



Mexican marines and Royal Netherlands sailors work with U.S. Sailors at a Red Cross Distribution Center in Gulfport, Mississippi, providing relief for Hurricane Katrina victims

1<sup>st</sup> Combat Camera Squadron (Jennifer C. Wallis)



Hospital patients evacuated from Beaumont, Texas, because of Hurricane Rita arrive in California for medical care

well as Texas-specific staff team training in state emergency management operations. In 2008, additional joint individual training requirements will include Internet training modules for the adaptive battle staff members provided by U.S. Joint Forces Command.

USNORTHCOM has organized its joint staff around a nodal construct for crisis operations, a modification of the traditional J1–J9 model, as published in the USNORTHCOM concept of operations:

- joint operations
- joint planning
- joint support
- joint information synchronization
- joint interagency coordination.

When JFHQ–TX reorganized after the 2005 hurricane season, it adopted U.S. Northern Command's adaptive battle staff (ABS) model and refined it to meet the needs of the state.

Texas consolidated the ABS model into three nodes, melding joint planning and joint interagency coordination into joint operations, and mapped processes to deliver capabilities from the force providers via the Joint Task Force–Texas and/or joint interagency task force to ultimate customers. The Texas Guard's philosophy is *not* command-centric. By design, and in accordance with the principles of NIMS and ICS, there is no military commander at the top of the TXMF ABS organizational diagram. The response approach in Texas is customer-centric, and the customer is the distressed citizen, as represented by impacted civilian or elected leaders. The Governor's Division of Emergency Management acts as a thermostat on the JFHQ–TX ABS processes, using Annex W (Military Support) of the state's emergency management plan to engage and disengage the TXMF as required.

One of the adaptations Texas is pursuing, which is worthy of special note, is the Defense Support of Civilian Authorities Joint Interagency Task Force (DSCA JIATF). This task force is the subordinate interagency element that the JFHQ–TX “gives birth to” and deploys forward to the vicinity of the disaster site. It is staffed by personnel from the JFHQ–TX and selected members and liaison officers from force provider components, such as the Texas Army National Guard, Texas Air National Guard, and Texas State Guard. The Texas DSCA JIATF also includes representatives from key state agencies. It is designed to deploy forward at alert+2 hours and relies on full-time

Texas Guardsmen to launch and establish the forward operating sections, followed up within a day or two by traditional and State Guardsmen. The DSCA JIATF simultaneously launches liaison officers farther forward to assist key civilian responders at the county and municipal levels—a key enabler for success with local political entities and in the maintenance of a common operating picture, which in Texas exists through a robust liaison officer exchange, along with reliance on WebEOC, the software utility used almost universally by local and state emergency responders. DSCA JIATF military members are there to provide unified command with attached civilian responders in key functions, as suggested by the ICS staffing model. The DSCA JIATF is designed to have operational management responsibilities and can oversee multiple functional and geographical strike teams and subordinate task forces in accordance with established NIMS and ICS procedures.

## JFHQ–TX Mandate

### Mission

#### Plan, Coordinate, and Facilitate

Homeland Security Activities  
Homeland Defense Operations  
Defense Support of Civilian Authorities

#### Provide Emergency Support Functions

Leadership for Civilian–Military Partnerships Support  
Liaison and Communications Interface with State and Federal Civil–Military Responders

#### Deploy for Unity of Effort and Unified Command Response

Accept Forces  
Provide Reception, Staging, Onward Movement, and Integration  
Establish Situational Awareness and Assure Effective Communication

### Commander's Intent

Ensure Force Protection  
Enable Unity of Effort  
Maintain a Unified Command Environment  
Form Task Forces  
Overcome Threats and Risks  
Provide Defense Support of Civilian Authorities  
Strengthen Partnerships and Function as a Team  
Support Lead Civil Authorities  
Homeland Security Activities

## Commitment to the Federal System

Texas and its JIIM partners have begun a journey to answer the challenge of the Townsend Report and to provide the most timely, well-coordinated response to future major disasters in Texas or wherever the TXMF is called. As part of this journey, the JFHQ–TX is continually evolving with its JIIM partners. While the word *doctrine* is always present in the military, the Texas Military Forces prefers to “evolve practice” with JIIM partners through an ever-shifting balance between science and art rather than stubbornly adhering to doctrine that either does not really exist or is quickly left behind due to changing circumstances presented by disasters and the requirements of local civilian authorities.

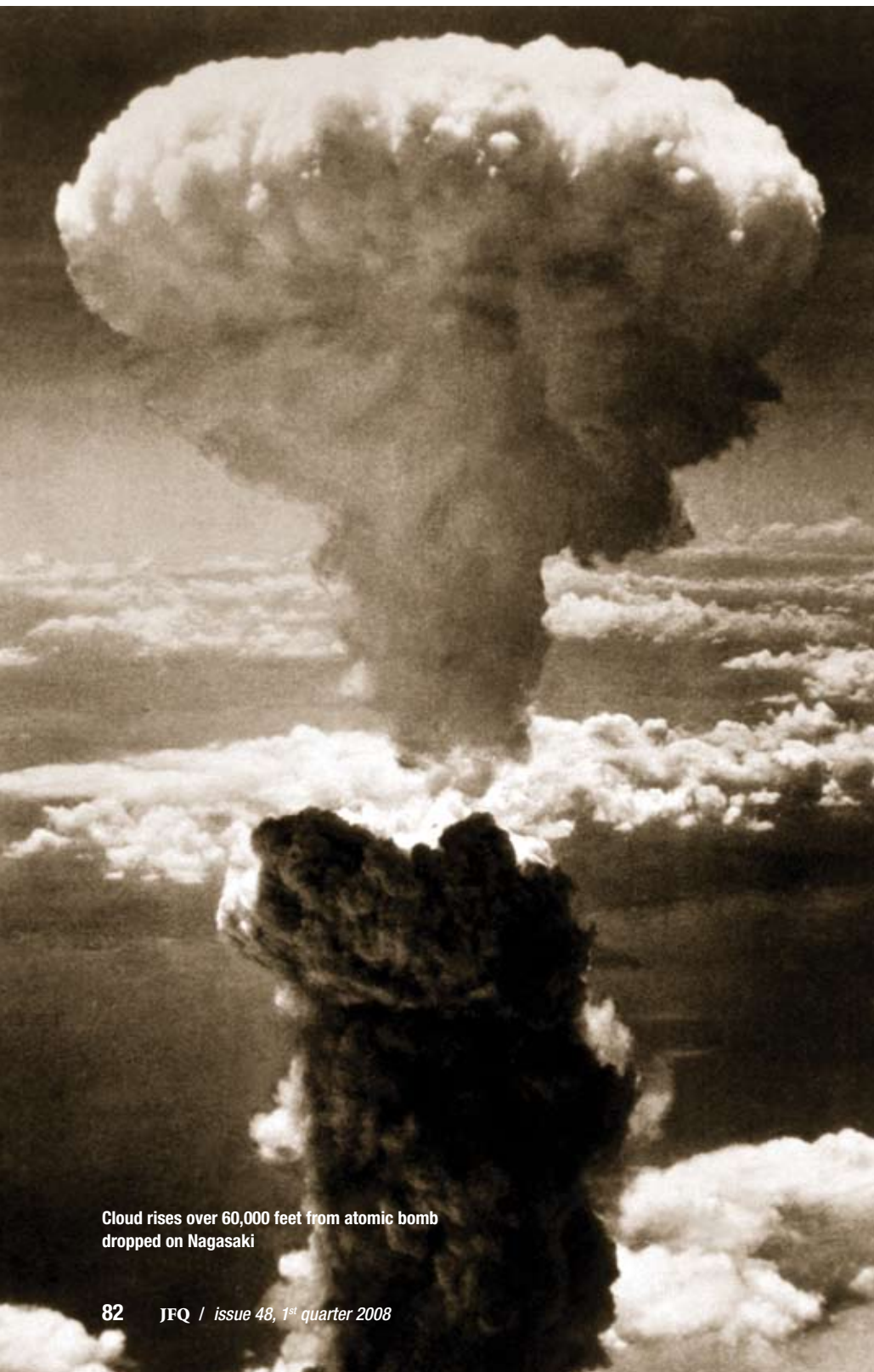
Defense support of civilian authorities is a critical National Guard responsibility. However, no doctrinal template or one-size-fits-all plan will fully prepare civilian or military responders for the next major disaster. It will take constant training together and untiring respect for the American system (that is, local, state, and national governments coexisting) to establish genuine domestic operational preparedness. Flexible response should be informed by evolving practice and operational development and refinement. Yet equally important is the art of adaptive, ad hoc collaboration among peer responders: local, state, national, civilian, military, private, non-profit, and multinational.

The military, led by the National Guard in domestic operations, might best find its place in “leading quietly from behind,” contributing its planning and operational coordination expertise and its disciplined ranks and technical ability. The goal of domestic operations by the military is rapid restoration of the economy, domestic calm, and local civilian sovereignty. The Texas Military Forces stands as guardian of this goal in the Lone Star State and opposes any subversion of the Federal system of self-government as articulated in the Constitution, especially the 10<sup>th</sup> Amendment. Science and art combine to make this possible in Texas and nationally. **JFQ**

**Contributors:** Bernd McConnell and Lieutenant Colonel Kristine Shelstad, ARNG.

# Reconstituting Capability to Conduct a CRISIS NUCLEAR DETONATION

By DREW MILLER



Cloud rises over 60,000 feet from atomic bomb dropped on Nagasaki

In making decisions on future nuclear forces and nuclear test readiness, we are ignoring a vital but decaying capability that could make the difference in deterring an aggressor's use of weapons of mass destruction (WMD). When we stopped nuclear weapons testing in respect of the unratified Comprehensive Test Ban Treaty, we retained the ability to conduct a test for two basic purposes: to fix a problem with a nuclear weapon, or to detonate a nuclear weapon at the Nevada Test Site (NTS) as a flexible deterrent option<sup>1</sup> (FDO) to show resolve. But this latter "demonstrative detonation" capability has decayed to the point where we can no longer conduct a quick "nuclear warning" FDO. We need to reconstitute this capability since it might be our best means of avoiding enemy use of WMD.

While the Office of the Secretary of Defense (OSD) Program Analysis and Evaluation test scenarios for assessing nuclear test readiness included a "demonstrative test," the Nuclear Test Organization<sup>2</sup> is focused on nuclear weapons test issues and ignores readiness to conduct a quick demonstrative detonation. A September 2002 report by the Department of Energy (DOE) Office of Inspector General noted that the ability to resume underground nuclear testing (UGT) within 3 years was "at risk" due to staff losses, obsolete equipment, and fewer facilities dedicated to testing.<sup>3</sup> Improved *data* test readiness is getting some attention—but not demonstrative detonation readiness. Occasionally, the Department of Defense (DOD), DOE, or National Nuclear Security Administration mentions conducting a very fast demonstrative detonation at the NTS, but the test readiness program is *not* addressing this second and different UGT mission.

Colonel Drew Miller, USAFR, is President of Heartland Management Consulting Group.

DOD

While a demonstrative detonation is much simpler than a complicated data test, the time deadline to get the device detonated will be far more demanding: days, not months. Inability to quickly conduct this nuclear demonstration of U.S. resolve may eliminate an FDO that could be the only means left to dissuade an enemy from a WMD attack or the only alternative to launching a U.S. preemptive nuclear strike.

A DOD Threat Reduction Advisory Committee report released in March 2005 warned that UGT resumption may be driven by a sudden crisis, demanding a test that “would be urgent and unscheduled, necessitating the use of stockpile weapons with minimum diagnostics” conducted very quickly “to show national determination and will, to assure allies and deter aggressors.”<sup>4</sup> Since the national emergency that triggers a Presidential decision to signal U.S. resolve through a demonstrative detonation could arise with little or no warning, the time from go order (or warning) to detonation could be a few days. This is a far more stringent preparation time than a data test and the 24-month readiness level the Nuclear Test Organization is working on.

### **Sending a Strong Message**

An aggressive opponent with WMD may believe that a superpower unwilling to conduct nuclear tests and clearly deterred by heavy troop casualties would probably never use nuclear weapons in combat. Wishful thinking or misinterpretation of reported nuclear weapons reliability concerns might bolster doubts about the viability as well as U.S. willingness to employ such weaponry. With nuclear weapons not used in combat for over 60 years and not even tested for 15 years (the last UGT was in 1992), and with such strong U.S. aversion to losing troops or causing collateral damage, we should be prepared for opponents who believe that the United States will never use nuclear weapons unless the survival of the American home population is at stake.

By detonating a nuclear weapon at the Nevada Test Site as a flexible deterrent option, the United States could send the clear, strong message that:

- Our nuclear weapons work.
- We believe the threat of enemy WMD use has risen to a point where we must dem-

onstrate that we are both gravely concerned and prepared to use nuclear weapons.

■ We are willing to use nuclear weapons on our own soil to demonstrate our resolve—and we are willing to use them on foreign soil if necessary.

The timeframe for a demonstrative detonation FDO is not 24 months or even 6 months—6 days would be closer and 6 weeks would probably be too late. In 1998, National Nuclear Security Administration “ASAP” studies found that demonstrative detonations taking roughly 6 months are more accurately

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*improved data test readiness is getting some attention—but not demonstrative detonation readiness*

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described as relatively fast data tests, not crisis detonations, with a true emergency level of around-the-clock effort and resources. There is not a single real barrier to a 6-month or less UGT listed in the 1998 ASAP reports.<sup>5</sup> What is clear is the National Weapons Laboratories/testing bias. The laboratories point to challenges such as “incremental funding for a ‘pre-do’ philosophy competing with other needs within constrained funding.” Obviously, the National Weapons Laboratories are concerned that UGT readiness will take funds away from their own research and facilities.<sup>6</sup>

Ignoring immediate demonstrative detonation readiness could result in catastrophically wrong decisions on NTS facility maintenance. The Nuclear Test Organization is currently pursuing a maintenance policy of abandoning and destroying facilities, inventory, or materials that can be readily obtained or otherwise reconstituted within the 18-month execution period. This is an irresponsible policy if it leads to destruction of resources needed for a very quick FDO detonation. It may be acceptable for a data test to abandon a cheap resource that can be purchased and received on site in a few months, but it could be disastrous if loss of that resource delays a demonstrative detonation needed in a short time to avert war.

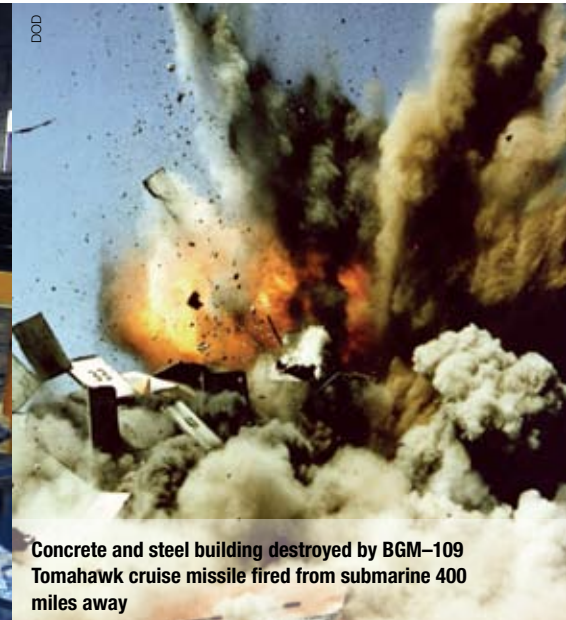
Two major arguments used against funding UGT readiness are that the Stockpile Stewardship Program (SSP) or Reliable Replacement Warhead (RRW) will work, which eliminates a need for UGT; and approval to test if SSP fails would never be granted anyway due to regulatory and political barriers. Both of these arguments implicitly refer to a data test that the Nuclear Test Organization focuses on most of the time. For a demonstrative detonation, they are irrelevant points. Test readiness funding based on maintaining a quick detonation capability is needed regardless of SSP or RRW success. While resistance to conducting a UGT might stop a data test, the crisis conditions that could lead to interest in a



Signal cables at Nevada Test Site are lowered into chamber to transmit data from underground explosion

National Nuclear Security Administration

Massive Ordnance Air Blast weapon is U.S. military's largest nonnuclear conventional weapon



Concrete and steel building destroyed by BGM-109 Tomahawk cruise missile fired from submarine 400 miles away

demonstrative detonation would be far more likely to overcome these barriers. It may well take a situation of imminent enemy WMD use or nuclear exchange to get the President to order a nuclear detonation at the NTS.

### Lining Up Funding

A related problem with the current test readiness mindset, which a shift to a demonstrative detonation focus could alleviate, is what department (DOE or DOD) we should look to for comparing the cost of test readiness and then justifying funding. As a data test-focused program, test readiness looks to DOE. The result is an inadequate funding level of \$20 million<sup>7</sup> and fights with the National Weapons Laboratories to spend this on real UGT readiness issues. Test readiness funding should not be competing with the National Ignition Facility; it should be regarded as a means of both assuring the stockpile and providing a vital deterrence option. In its February 2005 report to Congress, the National Nuclear Security Administration estimated that it would cost \$150 million to have a 6-month data test readiness level. The costs for a demonstrative detonation (without data collection and testing) would be much less, around \$75 million.

DOD should insist that the National Nuclear Security Administration promote demonstrative UGT readiness as an equally vital mission and start managing the test readiness process with a view to promoting both 24-month data test readiness and

X-day demonstrative detonation readiness. The Defense Threat Reduction Agency, U.S. Strategic Command, OSD Policy, and other offices concerned with nuclear war-related FDOs and test readiness issues should first order the Nuclear Test Organization to immediately halt the policy of abandoning and destroying facilities or materials that can be reconstituted within 18 months if they are needed for X-day demonstrative detonation readiness. DOD groups need to work with the National Nuclear Security Administration to lay out a good description of the scenarios and crisis environment that could lead to a demonstrative detonation and do a realistic estimate of the timetable for an underground peaceful nuclear explosion designed not to collect data but—as quickly as possible—to signal U.S. resolve and perhaps avoid WMD use that could kill millions. The National Nuclear Security Administration should then manage the test readiness program to achieve both 18-month data test and X-day demonstrative readiness.

The combined appeal of these two different missions, with increased support requested from DOD, should help the Nuclear Test Organization receive the funding needed. They can then identify and line up all the resources required for X-day demonstrative detonation readiness, improve personnel test readiness by practicing with and maintaining NTS resources, and get the authorization basis documents (especially safety) completed now for very fast demonstrative detonation readiness.

If a future President faces a crisis that threatens WMD use or massive loss of U.S. troops, he should have a flexible deterrent option to demonstrate American resolve with a very quick detonation at the Nevada Test Site. This ready capability might well make the difference in averting enemy WMD use or nuclear war. **JFQ**

### NOTES

<sup>1</sup> Joint Publication 1-02, *DOD Dictionary of Military Terms*, defines a *flexible deterrent option* as “a planning construct intended to facilitate early decision making by developing a wide range of interrelated responses that begin with deterrent-oriented actions carefully tailored to produce a desired effect.”

<sup>2</sup> The Nuclear Test Organization consists of representatives from a mix of government agencies and other organizations that are directly involved in the whole system of underground nuclear testing, including the National Nuclear Security Administration, DOD, and National Weapons Laboratories.

<sup>3</sup> See Jonathan Medalia, *Nuclear Weapons: Comprehensive Test Ban Treaty* (Washington, DC: Congressional Research Service, November 5, 2002), 3.

<sup>4</sup> Bechtel Nevada, Assessment of “ASAP” Scenario, white paper for internal review, September 1998, “Underground Nuclear Testing: Issues Regarding Resumption,” Report of the Threat Reduction Advisory Committee, March 2005, 5.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, section 2.3, 9.

<sup>7</sup> The DOE budget request for test readiness for fiscal year 2008 is zero funding. DOE has apparently decided to suspend any underground testing readiness efforts.

# Counterair and Counterland

## Concepts for the 21<sup>st</sup> Century

By ELLWOOD P. HINMAN IV

*New conditions require, for solution—and new weapons require, for maximum application—new and imaginative methods. Wars are never won in the past.*

—General Douglas A. MacArthur



Airborne target surveillance supervisor on E-8C JSTARS communicates with Army ground units during mission in February 2006

U.S. Air Force (Lance Cheung)

The strategic landscape of the 21<sup>st</sup> century has driven the Department of Defense (DOD) to transform the U.S. military, which requires a shift from legacy technologies and Cold War organizations to more flexible, adaptable capabilities and constructs effective across the spectrum of conflict. Each of the Services has embarked on aggressive plans that feature many technologies accompanied by new organizational constructs. The U.S. Army, for example, has shifted to modular forces based on the brigade combat team (BCT) and new technologies such as the Stryker fighting vehicle and those incorporated in the Future Combat System.

The same transformation must take place in the area of ideas. As Robert Scales argued, “More than ever war is a thinking game. Wars today must be fought with intellect as well as technology.”<sup>1</sup> Most operational concepts for prosecuting warfare within the changed strategic context remain wedded to legacy ideas developed decades ago. Innovative thought must bridge the ongoing changes within the separate branches and integrate the developing Service-specific technological capabilities into a seamless whole. More specifically, the need exists for a coherent set of ideas that fully integrates 21<sup>st</sup>-century American airpower with the Army brigade combat team.

Much ink has been spilled on international terrorism and irregular war. In fact, the 2006 *Quadrennial Defense Review Report* explained the transformation as a shift of emphasis “from major conventional combat operations—to multiple irregular, asymmetric operations.”<sup>2</sup> America must meet the challenges of the war on terror with continued intellectual effort in this area. However, as Air Force Lieutenant General David Deptula argued, “It’s not enough to fight today’s war against today’s enemy. We must be prepared for tomorrow.”<sup>3</sup> Irregular war is certainly a likely form of war in

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the future, but contrary to the teachings of some contemporary thinkers, it is by no means *the* future of war. The American defense establishment also needs novel concepts for “regular war” in an era of increasingly modern technology. Conventional war against an enemy with a credible land and air force is equally important and likely in the future. A wholesale shift toward irregular war could have dangerous implications for the Armed Forces and their ability to conduct future major combat operations.

In the last century, the threat of war with the Soviet Union in Central Europe led to a similar military transformation after the U.S. debacle in Vietnam. This effort culminated with the development of a combined arms concept for fighting in the Fulda Gap labeled *AirLand Battle*. This doctrine comprised the last comprehensive U.S. military strategy that specifically addressed how air and ground forces would fight a major conventional war. The Soviet Union no longer exists, and the Fulda Gap is little more than a geographic feature within a unified Germany. The latter decades of the 20<sup>th</sup> century featured *AirLand Battle* as the U.S. military’s focus; no such coherent approach exists in the new century. But the time has come for fresh concepts integrating interdependent air and ground forces on the battlefields of the 21<sup>st</sup> century. Such is the purpose of *AirLandBattle21*.

The intent of this article is to isolate and analyze the interaction between the Army and Air Force in the context of medium- to large-scale conventional war. While certainly relevant to 21<sup>st</sup>-century conflict, this study does not discuss space and information operations in an explicit manner. Focused squarely on these two Services, *AirLandBattle21* will not specifically

with conflict in the changed strategic environment of the 21<sup>st</sup> century.

### Brigade Combat Teams

The Army’s effort toward transformation aims to develop a lighter and more agile force that remains potent across the spectrum of conflict. This shift to modular forces is central to DOD transformation. During 2006 congressional testimony, General Peter Schoomaker, then–Army Chief of Staff, explained that his Service was “transforming to become a more powerful, more flexible, and more deployable force.”<sup>4</sup> While the 20<sup>th</sup>-century Army deployed entire divisions in the event of war, the brigade has become the new baseline combat fighting force. Instead of the months it took to move bulky Cold War divisions, the deployment of fully combat-capable new BCTs will be measured in days. Ultimately, the Army will field 70 BCTs.<sup>5</sup> Nineteen will be heavy-armor brigades, 44 will be light-infantry units, and the remaining 7 medium brigades will bridge the gap with the new Stryker fighting vehicle. Featuring both the Stryker and BCT construct, the Stryker brigade is the consummate example of new technology and new organizations ripe for new ideas to complete the transformation.<sup>6</sup>

The Army’s emerging concept for BCT operational maneuver is a nonlinear battlefield with autonomous BCTs conducting distributed operations in a noncontiguous and geographically separated fashion. A basic assumption in this study is that, during medium- to large-scale military operations, the Army will employ a relevant number of BCTs in this manner. Figure 1 provides a simplified depiction of a shift from the linear battlefield of the past to a 360-degree environment in the future.

of Bradleys and Abrams tanks, had the ability to command as much ground as an entire division during the Cold War.”<sup>8</sup>

As a result of such employment, BCTs have become increasingly dependent on airpower. Noncontiguous BCTs will be far smaller in size than their divisional predecessors and will generally have less armor in each unit. Furthermore, the Army transformation called for a 20 percent overall reduction in artillery and multiple launch rocket systems and cut heavy artillery by as much as 60 percent.<sup>9</sup> Each of these changes underscores the greatly increased interdependence between air and ground forces in the future battlespace.

In 2001, Murray found that “the problem of integrating new technologies into doctrine and structures that can realistically address the wars of the 21<sup>st</sup> century will remain as difficult as they were in the last century. But as the Army leadership has grasped, the Army has no choice but to transform.”<sup>10</sup> With this observation, he highlighted the indelible link between technology, organization, and innovative thought, acknowledging the mandate for change in each of these areas.

### Counterair Concepts

To enable BCT success, the air component must achieve a requisite level of control. The idea of air superiority is inextricably linked to American airpower, growing up with U.S. aviation as it was becoming a viable military weapon. The concept of air supremacy gained popularity as the Air Force became predominant later in the 20<sup>th</sup> century. In a large Air Force with plentiful fighter wings and a plethora of fighter aircraft, unrivaled control of the air may be possible. Current fiscal realities and resource limitations, however, bring ideas such as air supremacy into sharper focus. Budgetary constraints, the skyrocketing costs of new equipment, and the need to recapitalize an aging fleet have left the Air Force little choice but to reduce the number of aircraft and personnel.

Current estimates indicate that the Air Force will retire as many as 350 fighter aircraft in the near future. In their place will be roughly half the number of F–22s. Over 16 years of sustained air operations in Southwest Asia have stretched expeditionary elements of the Air Force. Currently, the Service is fully engaged in Afghanistan, Iraq, and the wider war on terror. The 21<sup>st</sup>-century strategic landscape features numerous additional potential threats. Mean-

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*the latter decades of the 20<sup>th</sup> century featured AirLand Battle as the U.S. military’s focus; no such coherent approach exists in the new century*

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address the Navy or Marine Corps in any substantive way. Finally, *AirLandBattle21* will not offer a panacea or a “one-size-fits-all” approach to future wars. It is unlikely that every idea herein would perfectly fit any particular future operation. Future planners, however, may find the menu of options appetizing. Armed with only general ideas from joint doctrine and the dated concepts of the last century, these planners would otherwise feel compelled to start from scratch. Instead, this article offers an initial conceptual framework far more compatible

The Army fought with BCTs in both Iraq and Afghanistan. Schoomaker stated in 2006 that “for the last five years . . . the Army has had as many as 18–20 brigade combat teams deployed on a rotational basis in combat operations.”<sup>7</sup> Furthermore, BCTs in Operation *Iraqi Freedom* fought in accordance with the distributed operations model. Williamson Murray and Robert Scales wrote that during initial combat operations in Iraq, each BCT “was essentially a self-contained close combat unit which, thanks to the speed and killing power

while, the Army is transforming how it plans to fight in this new environment. In the aggregate, these many changes invite new ways of looking at counterair operations.

Joint Publication (JP) 1-02, *DOD Dictionary of Military and Associated Terms*, defines *air superiority* as “that degree of dominance in the air battle of one force over another that permits the conduct of operations by the former and its related land, sea and air forces at a given time and place without prohibitive interference by the opposing force.”<sup>11</sup> *Air supremacy*, on the other hand, is defined as “that degree of air superiority wherein the opposing air force is incapable of effective interference.”<sup>12</sup> As warfare becomes more interdependent, analysis of what constitutes prohibitive interference from an Army perspective may be instructive. Interestingly, in a 2006 survey of field-grade Army officers, 100 percent responded that the death of one Soldier as the direct result of enemy air attack would not constitute prohibitive interference. Over 77 percent found the loss of up to 10 Soldiers to air attack permissible under most circumstances. While Army officers may be willing to accept a number of casualties, the Air Force has not allowed the loss of a single Soldier to enemy air attack in over 50 years. Therefore, when viewed from the BCT perspective, it is reasonable to consider the regrettable future loss of a few Soldiers and a few

aircraft to enemy air attack acceptable under the umbrella of air superiority.

JP 1-02 defines *counterair* as “a mission that integrates offensive and defensive operations to attain and maintain a desired degree of air superiority.”<sup>13</sup> Significantly, this definition links the counterair mission to a desired degree of air superiority, implying the existence of a spectrum of control in the air. Such a conceptualization might have enduring doctrinal utility and would also lay a useful foundation for the associated development of AirLandBattle21 counterair concepts. Unfortunately, Air Force doctrine does not currently establish such a spectrum.

Figure 2 offers a novel method of viewing differing degrees of counterair along a linear continuum. The enemy’s ability to interfere with friendly air and ground operations is greatest on the far left. There is no enemy interference on the far right. Friendly control of the air is the reciprocal of enemy interference, with hypothetically no control on the left of the spectrum and maximum control on the far right. Reading from left to right, *local air superiority* offers the lowest defined level of relative friendly control in the air, implying a relatively higher level of potential enemy interference. The term *local* as it relates to air superiority in this context implies the achievement of air superiority in a specific area or for a limited time. Local air superiority, then, would allow no prohibitive interference in

a particular area but, as compared to the other levels, would provide the least control across the theater as a whole.<sup>14</sup> *General air superiority* constitutes the next level in the spectrum of relative air control. The term *general* in this context connotes constant air superiority across the entire battlespace without any temporal restrictions unless otherwise specified. For example, an air strategy might call for general air superiority throughout the theater, with the exception of a particular area that, for some

*current fiscal realities and resource limitations bring ideas such as air supremacy into sharper focus*

reason, will only require local air superiority during a specified time.

The next increased level of control would allow for *local air supremacy* in a specified location while maintaining general air superiority across the entire theater. As the definitions of air superiority and air supremacy suggest, this construct would allow no prohibitive interference throughout the theater and no effective interference in the particular area assigned local air supremacy. The spectrum of control in the air, featuring this concept of *general air superiority with local air supremacy*, provides a framework for the efficient use of limited air assets,

Figure 1. Noncontiguous BCT Employment

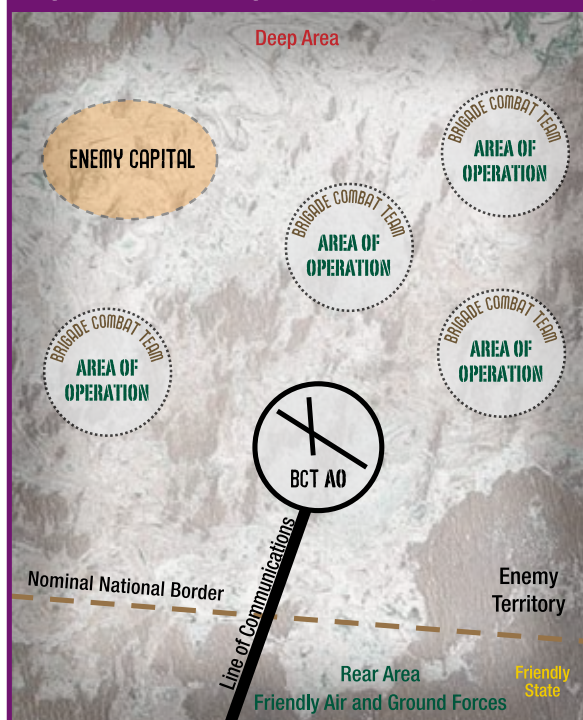
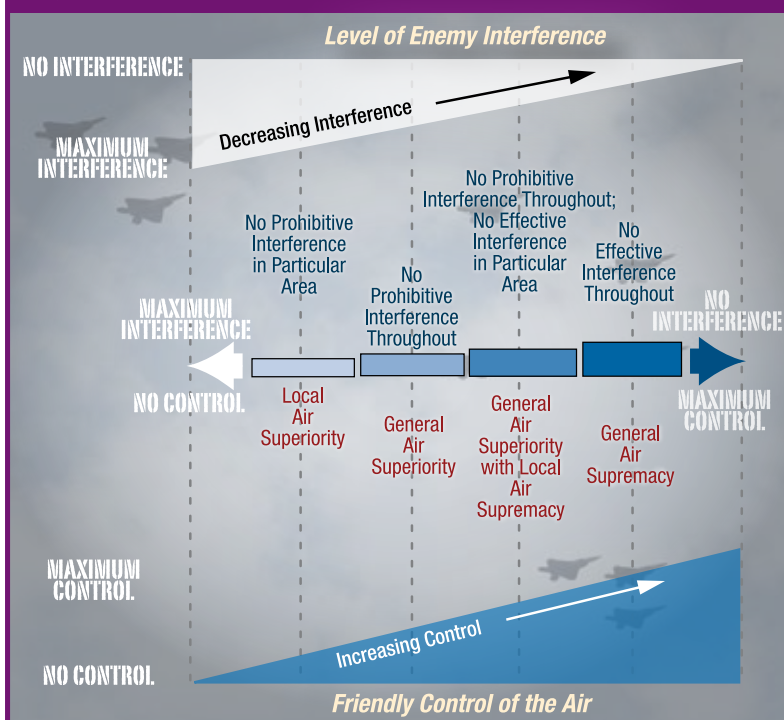


Figure 2. Spectrum for Relative Control of the Air



allowing air strategists maximum flexibility to plan for only the necessary levels of air control in different areas across the theater. Naturally, the next level of control, allowing no effective enemy interference throughout the entire battlespace, would be *general air supremacy*. While this is a fully legitimate goal in some circumstances, air planners too often aim to achieve this extremely high level of air control before it becomes necessary, diverting air assets that may be more effectively used elsewhere.<sup>15</sup>

Building on figure 1, figure 3 shows a scenario featuring local air superiority in particular areas. This lowest level of air control suggests a situation where air superiority is appropriate or necessary only over friendly territory and in two particular BCT areas of operation. There may be some compatibility with this concept and joint doctrine Phase 0 (Shape) operations that might feature the deployment of these two BCTs to perhaps establish aerial ports of debarkation and prepare for follow-on operations. The additional three areas of operation that may be activated during Phase I (Deter) operations would likely require local air superiority as well as BCTs moved into those locations.

The next level of control in the air would be general air superiority (figure 4). While such an approach would ensure no prohibitive enemy air interference across

the entire theater of combat operations, there may in some circumstances be particular areas that do not initially require this increased level of effort at all times. As figure 4 suggests, examples might include the deep area or a heavily defended enemy capital where constant air superiority would at times be inefficient and unnecessary, particularly in a situation where the bulk of air assets are attacking military targets more directly relevant to friendly surface forces. In such a scenario, local air superiority in a temporal

*the spectrum of control in the air provides a framework for the efficient use of limited air assets*

sense would be planned when required to enable airstrikes into these areas. While there are multiple variations to this concept, an air strategy along these lines might be compatible in certain situations with joint doctrine Phase II (Seize the Initiative) operations. In fact, as responses to the survey of Army field-grade officers suggested, general air superiority may be the highest level of control required throughout certain military operations where enabling and accelerating inte-

grated air and ground mission success are the primary purpose of the counterair effort.

In the event that conditions require it, however, the next level of air control, as depicted in figure 5, might feature general air superiority with local air supremacy. Once hostilities begin, examples of areas where commanders would likely expect no effective interference include the rear area and the battlespace over BCT areas of operation. In this increased level of control, it may be appropriate to expand general air superiority to areas not formerly offered constant control, such as the deep area and enemy capital. The scenario depicted in figure 5 would provide one possible air strategy during Phase III (Dominate) operations. This approach, featuring general air superiority, local air supremacy, and local air superiority simultaneously, suggests that as the Army moves to nonlinear operations it may be appropriate for the Air Force to do something similar. Once again, the construct featuring general air superiority with local air supremacy may be sufficient to address all requirements throughout the remainder of the operation. However, it is conceivable, and in some cases likely, that Phase IV (Stabilize) and Phase V (Enable Civil Authority) efforts would require general air supremacy.

From the interwar period to the end of the 20<sup>th</sup> century, airpower theory and doctrine

Figure 3. Local Air Superiority

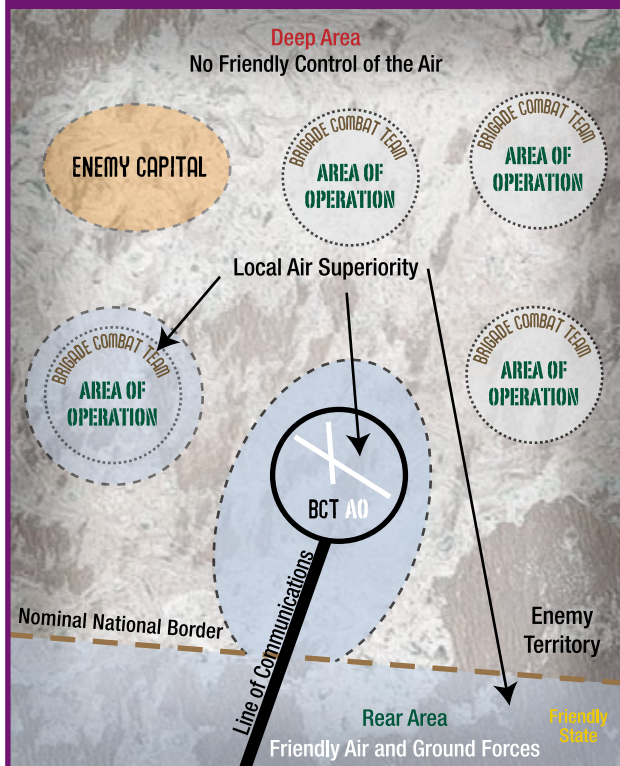
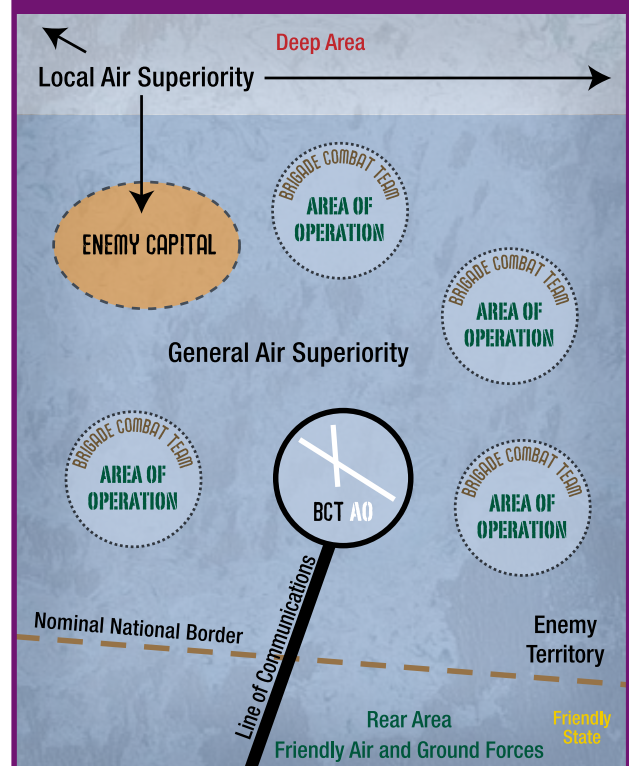


Figure 4. General Air Superiority



placed paramount emphasis on the primacy of the counterair mission. Rather than a requisite means to an end, control of the air at times became an end in itself. Transformational change within individual Services, such as the transition to BCTs and to fewer, newer aircraft, necessitates equitable change to this legacy approach. While airpower advocates promoted the highest levels of air superiority and air supremacy in the past, their Army counterparts now counsel a new paradigm. Simply stated, general air supremacy may be both less likely and less appropriate in the 21<sup>st</sup> century. Future planners using AirLandBattle21 counterair concepts will instead have a scalable menu of choices not unlike the Army's new modular construct. In order to fight with increasingly interdependent BCTs, Airmen must use their limited assets wisely. Efficiency proved a worthy Air Force guide in the last century. It will become a necessity in the future.

### Counterland Concepts

In Air Force doctrine, the term *counterland* encompasses two specific missions: close air support (CAS) and air interdiction (AI). JP 1-02 defines CAS as "air action by fixed- and rotary-wing aircraft against hostile targets that are in close proximity to friendly forces and that require detailed integration of each air mission

with the fire and movement of those forces."<sup>16</sup> JP 1-02 defines AI as "air operations conducted to divert, disrupt, delay, or destroy the enemy's military potential before it can be brought to bear effectively against friendly forces, or to otherwise achieve objectives." It further specifies that AI "is conducted at such distance from friendly forces that detailed integration of each air mission with the fire and movement of friendly forces is not required."<sup>17</sup> In simple terms, AI refers to any attacks on the enemy's military potential that do not qualify as CAS.

Many Soldiers equate the Air Force with CAS. While important in the 20<sup>th</sup> century, Service interdependence will make CAS critical in the future. According to a 2006 Air Force document, "Due to a decrease in organic artillery firepower and anticipated operations conducted by small units on a more dispersed nonlinear battlefield, the Army has stated a requirement for increased [Air Force] CAS support."<sup>18</sup> Army transformation, paired with vastly improved airpower capabilities, suggests that 20<sup>th</sup>-century CAS concepts may be ripe for change as well. A more holistic look at the counterland mission could yield new airpower concepts more harmonious with the nonlinear nature of future ground battle.

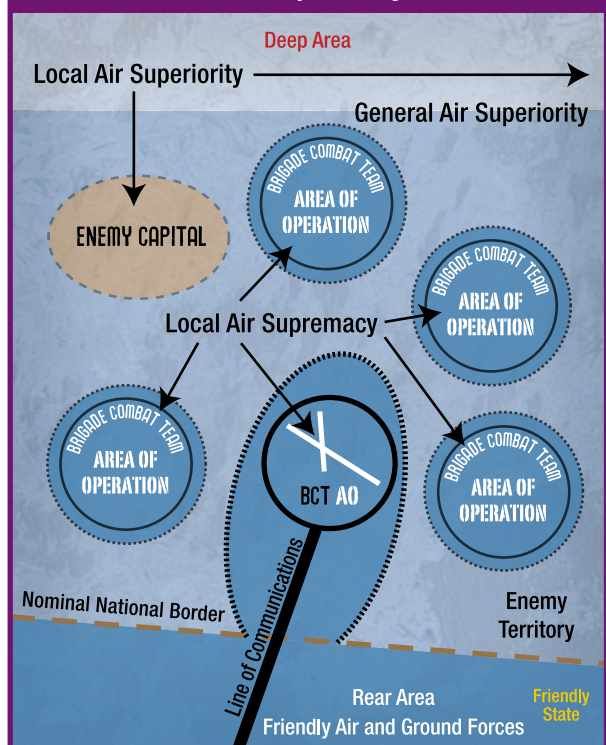
In fact, a concept beyond the traditional ground attack missions of CAS, AI, and

Soldiers test Future Combat System Class I unmanned aerial vehicle



U.S. Army

Figure 5. General Air Superiority with Local Air Supremacy



U.S. Air Force (Michael Ammons)

F-22A Raptor fires AIM-120 advanced medium-range air-to-air missile at aerial target drone over Gulf of Mexico



strategic attack may be necessary. CAS features aircraft exclusively in direct support of ground maneuver. One could envision future counterland missions with airpower in a supported role. Similarly, strategic attack favors the use of airpower independent of ground forces while a visionary mission would allow for the interdependent application of air and ground forces. In the 20<sup>th</sup> century, many Soldiers viewed airpower strictly as support to ground forces. Airmen often tended to favor the application of airpower independent of the ground fight. These two traditional views of airpower led to CAS and strategic attack receiving the bulk of emphasis from a ground attack perspective, leaving a large gap in between.

At first glance, it would appear that the traditional AI mission addressed this void. On the contrary; the term *interdict* implies the use of firepower to cut off rather than destroy, referring more to attacks on enemy lines of supply and communication than on enemy forces themselves. In a functional sense, then, AI falls short of fully embracing the enemy's fielded forces as the primary target. Geographically, it broadly encompasses a remarkably wide area that ranges from just beyond the close battle to the far reaches of the entire battlespace. By specifically acknowledging the existence of strategic attack and clearly defining the term, the Air Force has addressed one end of this spectrum. The other end warrants similar attention.

AirLand Battle of the Cold War era featured a vital airpower mission called

*battlefield air interdiction* (BAI). This mission was central to the doctrine's basic tenet of attacking second-echelon Soviet follow-on forces in the Fulda Gap before they closed with friendly forces. As the Berlin Wall came down, AirLand Battle fell away and this mission disappeared. In an effort to address the resulting gap, AirLandBattle21 advocates the advent of a new airpower mission labeled *battlespace air operations* (BAO).<sup>19</sup>

One pragmatic approach used largely as a result of this past void has been the practice of assigning aircraft to particular grids on the ground, called *kill boxes*. Accordingly, some may argue that the kill box has replaced the BAI mission. More accurately, though, the kill box concept is, at its core, a fire support coor-

Confusing the issue is the seemingly conspicuous incompatibility of the 20<sup>th</sup>-century fire support coordination line (FSCL) with 21<sup>st</sup>-century nonlinear BCT operations. Disagreements between the Services on where the FSCL should be drawn have further complicated the counterland mission. Thus, AirLandBattle21 advocates use of the term *battlespace coordination area* (BCA) to denote a transformational concept beyond the dated and contentious FSCL.<sup>22</sup>

A traditional view of the battlefield features an FSCL that may be aligned with territorial zones of operation but well beyond the areas where associated BCTs actually plan to operate in the near future. Such an FSCL would likely extend past the range of

### *general air supremacy may be both less likely and less appropriate in the 21<sup>st</sup> century*

dination measure without a doctrinal mission and without the associated widely accepted operational concepts to perform that mission.<sup>20</sup> To address the mission shortfall, planners in Korea developed an ad hoc remedy they called *mobile interdiction*, typically used to describe the task performed in a kill box assigned in the air tasking order. However, mobile interdiction is not used widely elsewhere, does not appear in either Air Force or joint doctrine, and, once again, is not accompanied by well-developed operational concepts.<sup>21</sup>

indigenous BCT firepower. Furthermore, applying the same traditional mindset used during *Desert Storm* and *Iraqi Freedom*, CAS would span the entire area within, around, and between the BCT areas of operation. The bulk of this battlespace would host no hostile action between enemy and friendly ground troops in close proximity. Nonetheless, as in the two Iraq wars, detailed integration would presumably be required to avoid friendly fire incidents from the air despite the absence of friendly surface forces in much of the "gray area" between BCT areas of operation. Consequently, the procedural actions required by doctrine would superimpose substantial inefficiencies unnecessary in such a situation. In practical terms, such extraneous procedures could drastically reduce the number of military targets such as enemy tanks that friendly combat aircraft could destroy, given time and fuel constraints. Simply stated, the gray area would become a sanctuary for the adversary's fielded forces.<sup>23</sup>

A transformational view of the battlespace would also feature areas of CAS. These areas, however, would be carefully planned to encompass only those regions where troops could be reasonably expected to be in contact and where positive control measures would therefore be necessary and appropriate. In such a construct, the FSCL from the days of the linear battlefield would be replaced with BCAs far more compatible with the nonlinear battlespace of the 21<sup>st</sup> century. Instead of CAS and the baggage that it brings to this battlespace,



U.S. Air Force forward air controllers coordinate close air support from rooftop of Karbala provincial compound

U.S. Army (Sean A. Foley)

the transformational view would allow air forces in these gray areas to perform the far more appropriate mission of BAO. These actions would greatly increase the opportunity for mass destruction of military targets from the air. Rather than sanctuaries, gray areas would become killing fields.

AirLandBattle21 fills the airpower mission void with battlespace air operations and replaces the fire support coordination line with the battlespace coordination area. The lack of well-developed joint doctrine, transformational ideas, and widely accepted inter-Service operational concepts for integrating airpower and BCTs would be met with the concept of *air as a maneuver force* (AMF). The term *maneuver* implies a supported force, serving as the main effort, with other elements in a supporting role. When air and ground forces fought together in the last century, ground units played the maneuver force with airpower exclusively in support. The innovative AMF concept, however, allows air forces to serve in the maneuver role.

Because BCTs are smaller and lighter than legacy armored divisions, future U.S. ground forces may find themselves facing numerically superior and possibly heavier enemy forces. The innovative application of airpower will be central to success in this new environment. For example, the joint force commander may choose to employ an AMF as the main effort with the BCT initially supporting as a feint or fixing force. In response to the threat or perhaps opportunity posed by the BCT, the enemy may establish hasty defensive positions or may attempt to attack. In so doing, these previously “dug in” forces would be vulnerable to a strike from the air. In such a scenario, the BCT would not initially give battle, allowing airpower to attack. When appropriate, a dynamic supported/supporting relationship between these forces would allow for a timely shift in roles, placing airpower in the supporting role once the BCT strikes.

Critics may argue that the AMF concept has existed for some time and is incorporated in both Air Force and Army doctrine. While not yet accepted in the joint environment, the idea is emerging in Service documents. Applying concepts, however, can be far more difficult than developing them. The real challenge with a concept as transformational as the AMF is moving from theory to practice and truly implementing it in the battlespace in a deliberate manner. AirLandBattle21's practical,

coherent architecture will enable the widespread application of such ideas.

To fully integrate interdependent air and ground forces, transformational counter-air and counterland concepts such as those presented in this article must be accepted and implemented across the Air Force and Army. On the road ahead, the Services must also address the increased dependence a geographically separated brigade combat team will have on resupply from the air. Rather than current inter-Service focus on a particular airframe such as the joint cargo aircraft, a more complete solution will arguably reach beyond technology to a holistic ground sustainment system incorporating a variety of visionary capabilities and transformational concepts. In addition to addressing this critical airlift challenge, the 21<sup>st</sup>-century Air Force must explore alternatives to strategic attack and reconsider the 20<sup>th</sup>-century conventions that relegate the increasingly critical counterland mission to a distant third behind counterair and strategic attack.

Critics of AirLandBattle21 might argue these new concepts are too prescriptive. By no means intended as a joint planning checklist, these ideas are meant rather to simply inform future strategists. AirLandBattle21 could be viewed as an alternative framework replete with novel ideas potentially applicable to future military operations. Of course, the real world future scenario may be different than the assumptions that formed the baseline for these concepts. Guidance from the joint force commander and component commanders will drive the planning effort, but these concepts may assist staffs in meeting their intent. The goal would be for AirLandBattle21 concepts to serve as a worthwhile reference and inspire innovative future thought, but ultimately to return to the shelf as the real plans for actual contingencies take form. **JFQ**

## NOTES

<sup>1</sup> Robert H. Scales, “The Second Learning Revolution,” in *Rethinking the Principles of War*, ed. Anthony D. McIvor (Annapolis: Naval Institute Press, 2005), 43.

<sup>2</sup> Department of Defense (DOD), *Quadrennial Defense Review Report* (Washington, DC: DOD, February 6, 2006), iv.

<sup>3</sup> David A. Deptula, “Letter to the Editor: Meeting Air Force's Needs, Today and Tomorrow,” *The New York Times*, February 10, 2007, A14.

<sup>4</sup> Peter J. Schoomaker, Statement Before the Committee on Armed Services, U.S. House of Representatives, 109<sup>th</sup> Cong., 2<sup>d</sup> sess., June 27, 2006, 4.

<sup>5</sup> The Active force will have 42 brigade combat teams with the additional 28 in the Guard and Reserves.

<sup>6</sup> Combined Arms Center, Current Force Integration Directorate, “Modular Force Update,” November 2, 2006. The next step in the Army's transformation, called the Objective Force, will integrate the Future Combat System into these brigades.

<sup>7</sup> Schoomaker, 2.

<sup>8</sup> Williamson Murray and Robert H. Scales, *The Iraq War: A Military History* (London: Belknap Press, 2003), 97.

<sup>9</sup> Headquarters Air Force Doctrine Center (AFDC), *Army Transformation and the Impact on the Air Force*, Doctrine Watch (Maxwell Air Force Base, AL: AFDC, March 2006), 1.

<sup>10</sup> Williamson Murray, ed., *Army Transformation: A View from the U.S. Army War College* (Carlisle, PA: Strategic Studies Institute, 2001), 9.

<sup>11</sup> Joint Publication (JP) 1-02, *DOD Dictionary of Military and Associated Terms* (Norfolk, VA: U.S. Joint Forces Command, April 12, 2001).

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Headquarters AFDC, Air Force Doctrine Document (AFDD) 1, *Air Force Basic Doctrine* (Maxwell Air Force Base, AL: AFDC, November 17, 2003), 77.

<sup>15</sup> Headquarters AFDC, AFDD 2-1.3, *Counterland Operations* (Maxwell Air Force Base, AL: AFDC, September 11, 2006), 11-12.

<sup>16</sup> JP 1-02.

<sup>17</sup> Ibid.

<sup>18</sup> Headquarters AFDC, *Army Transformation*, 2.

<sup>19</sup> Terrance J. McCaffrey III, “What Happened to BAI? Army and Air Force Battlefield Doctrine Development from Pre-Desert Storm to 2001” (Thesis, School of Advanced Airpower Studies, 2002), 102.

<sup>20</sup> U.S. Army, Field Manual 3-09.34, *Kill Box: Multi-Service Tactics, Techniques, and Procedures for Kill Box Employment* (Washington, DC: U.S. Army Publishing Agency, June 13, 2005), i, I-4.

<sup>21</sup> Headquarters AFDC, AFDD 2-1.3, 7.

<sup>22</sup> Rebecca Grant, “Marine Air in the Mainstream,” *Air Force Magazine* 87, no. 6 (June 2004), available at <[www.afa.org/magazine/june2004/0604marine.html](http://www.afa.org/magazine/june2004/0604marine.html)>.

<sup>23</sup> The fire support coordination line (FSCL) does not necessarily always serve as a demarcation between close air support (CAS) and other airpower missions. The traditional view, however, has generally held that CAS is the predominant aerial mission flown short of the FSCL.

# The Art of Strategy and Operational Warfare

# GETTING IT RIGHT

By CHRISTOPHER R. DAVIS

**T**oday, the U.S. military approaches war as a corporate affair, requiring authoritative guidance to synchronize thought and action.

To harmonize diverse activities toward a shared goal, joint doctrine seeks to provide a common perspective for joint, interagency, and multinational efforts.<sup>1</sup> Doctrine, therefore, is the military's link to national political objectives. American military leaders point to the lack of collective doctrine as the culprit for poor performance in World War I.<sup>2</sup> The military transformation that awoke America from its post-Vietnam malaise and forged today's joint force started with doctrine.<sup>3</sup> Its success in harnessing diverse organizational abilities

in the quest for national objectives depends on a number of factors; chief among them is providing a sound theoretical underpinning for arranging efforts. Joint doctrine should offer a useful mental model for the application of capabilities across the spectrum of operations and levels of war. To the extent that we get the fundamentals right, we increase our chances of achieving national objectives.

While war's nature is immutable, its character and conduct have clearly morphed.<sup>4</sup> During the Cold War, our adversary was a state bent on global domination through ideological insurgency. Communism, fortunately, provided insufficient inspiration for enduring the litany of privations it created. Tapping into the primordial

reservoir of religion and ethnicity, today's stateless insurgents capitalize on the deep humiliation engendered by political and economic marginalization in their quest for regional hegemony. The increasing public ire over the current debacle in Iraq and Afghanistan is fueling demands that we adapt to the new character of war and conduct it in a more fruitful manner. Whether through inadequate planning or inept execution, we have failed to properly coordinate the instruments of American power. Congress is now considering creating interagency Goldwater-Nichols-type legislation to address this national failure.<sup>5</sup> While some adjustment to joint doctrine is required for the sake of clarity, we must remain cautious in shifting too quickly toward unproven operational concepts.

## Differing Means

The recently released Joint Publication (JP) 1, *Doctrine for the Armed Forces of the United States*, is an amalgamation of two previous capstone publications that, for the first time in years, clearly links joint doctrine to higher level strategic guidance. This latest revision reduces doctrinal clutter, and its crisp prose is a welcome stylistic improvement over previous versions—which hopefully portends the future of this literary genre. JP 1, however, inherited some faults from its predecessors. A case in point is the paradigm of power articulated in the handy mnemonic acronym *DIME* (diplomatic, informational, military, and economic). Understanding and analyzing the elements and instruments of power are exceptional conditions for the military strategist. While they are critically important planning considerations for joint operations, only their military aspects



B-17 on bombing raid over Germany during World War II

DOD

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have an impact on operational execution. The eminent American strategist Alfred Thayer Mahan provided perhaps the finest elucidation of national means when he identified a nation's geography, territory, population, character of the people, and governmental system as the "principal conditions" leading to "the sea power of nations" and thus to national power.<sup>6</sup> He correctly postulated that a careful analysis of these geographical, economic, and social conditions—or elements of power—will determine the ability of a nation to create instruments of power employed by the joint practitioner.

The "sources of power" making their appearance in the Executive Summary of JP 1 seem remarkably similar to Mahan's principal conditions and, therefore, correspond to elements of power. Joint doctrine holds that these sources of power—culture, industry, geography, human potential, academic institutions, and so forth—are the elements that create the diplomatic, informational, military, and economic instruments of power. But, in point of fact, they all represent elements of power. Whatever the classification of elements chosen, a nation creates its instruments of national power from its available elements just as a craftsman uses iron (an element) to create a plowshare (an instrument). Viable manifestations of national instruments of power include Presidential envoys, broadcast media programs, Army divisions, and economic sanctions that may correlate, respectively, to the diplomatic, informational, military, and economic elemental categories.

This confusion creates a cognitive dissonance within joint doctrine that remains unresolved, seeing that any further exploration of this idea is absent from subsequent sections on this topic. By incorrectly referring to the diplomatic, information, military, and economic

elements of power as "instruments," joint doctrine fails to make the cognitive discrimination necessary to deal with the challenges we face and confuses our attempts to organize and apply American power.<sup>7</sup> Clarity is important within a strategic framework. Only through a careful analysis of the *elements* of power can we visualize and create the *instruments* of power necessary to achieve national interests. The creation of this artificial construct, furthermore, with narrowly categorized terms of reference—recent commentators have proposed adding political, social, and psychological elements to expand the mix—can

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*the "sources of power" in Joint Publication 1 seem remarkably similar to Mahan's principal conditions and, therefore, correspond to elements of power*

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easily foster a misguided notional assignment of national responsibilities that stifles creativity and inhibits penetrating analysis.

What Mahan points out—and JP 1 fails to articulate—is that international actors wield the instruments of power within unique historical and cultural contexts.<sup>8</sup> Access to elements of power and the instruments they spawn is not limited to states or nations. America is faced with thinking and enterprising adversaries who can now employ elements of power—either their own or those of others—to create instruments of power. Al Qaeda created, for example, a conventional combat unit—055 Brigade—to serve as a rapid reaction force in support of the Taliban government and to provide training to Qutubis fighting in other countries.<sup>9</sup> Acknowledgment of the reality that our enemies are also pursu-

ing instruments of power is missing from joint doctrine, and recognizing that fact is critical to gaining an appreciation for the dynamic tension that exists between competing elements and instruments of power. The German and French experiences on the eve of World War II are illustrative. While the French created an armored force of greater quality and quantity than the Germans, it was the Wehrmacht's superior organization and operational prowess that provided the more effective instrument of power.<sup>10</sup>

JP 1 begins, nonetheless, to weave a web among the various elements of power. It now explicitly calls for considering other organizational partners in planning operations. Furthermore, it places diplomatic and military efforts on an equal footing while specifically recognizing the Department of State as the lead agency for foreign affairs. This represents a change to the historic unitary element of power orientation of the Defense Department and the single instrument of power domain of the combatant commanders that have previously combined to limit effective unified action.<sup>11</sup> It also places an increased burden on military officers to immerse themselves in the intricacies of diplomacy and foreign policy at a time when military operations are increasing in complexity.

It should come as no surprise, however, that a joint doctrine exhibiting only a specious understanding of the instruments of power also struggles to provide coherent guidance on their synergistic application. Where this is particularly debilitating is in joint doctrine's approach to the informational element of power.<sup>12</sup> Bosnia reflects just how important information is in pacifying regions gripped by sectarian strife.<sup>13</sup> Information was central in the Alliance's effort to create international legitimacy, shape local perceptions, and engender cooperative behavior. Strangely, joint doctrine's stance that



Elements of 3<sup>d</sup> Brigade, 1<sup>st</sup> Armored Division, 7<sup>th</sup> Corps move across desert in northern Kuwait during Operation Desert Storm

information has “no single center of control” is paradoxically at odds with our stated goal of integrating information into joint operations to “dominate the information environment.” One would assume that the top-down guidance provided by the “strategic communication” outlined in JP 1 would clear up this confusion, but this does not seem to be the case, as official national policy in this area is absent. This is a perplexing disconnect at a time when commentators increasingly identify the media as a “combatant” able to determine the outcome of battles.<sup>14</sup> While America’s economy and culture represented important elements of power necessary for international competition at the turn of the previous century—and Mahan’s preferred instrument of power was a heavy fleet capable of decisive battle—America’s potential is far greater today but remains largely untapped.

*while America’s economy and culture represented important elements of power at the turn of the previous century, America’s potential is far greater today but remains largely untapped*

### Strategy in Context

Strategic formation exists at every level of human endeavor to link resources, actions, and the desired political outcome, but the current penchant for labeling weapons, systems, or commands as “strategic” leads to confusion and creates unfulfilled expectations. Joint doctrine holds that at the inaptly labeled “strategic” level of war, the impact of events is political in nature and directly relates to national interests. It concludes that higher order effects of military actions should support national aspirations. Clarification requires renaming the “strategic” level as “political” to break joint doctrine’s ambiguous delineation of the bounds of strategy. National policies, furthermore, derive from politics and are the manifest representation of the desired political outcome. Titling the highest level as “political” reaffirms war’s true nature, borne out in Carl von Clausewitz’s axiom that war is an extension of politics by other means.<sup>15</sup> It also clarifies the universal role of strategy in achieving national interests and serves to reverse the U.S. military’s misguided contention—in response to the supposed lessons of Vietnam and reflected in the Weinberger-Powell Doctrine—that military and not political considerations must be paramount in decisions involving the use of force.<sup>16</sup>

While the creation of strategic objectives, at least according to joint doctrine, is the

sole province of the President and Secretary of Defense, this is rarely the case. In practice, American political objectives are often defined in the interagency process, by Country Teams, unilaterally by Congress, internationally by organizations such as the United Nations (UN), or through a compromise among competing governmental bureaucracies. Somalia provides a case in point where UN officials successfully expanded the international mandate to include—for the first time—peace enforcement and, unbeknownst to the President or the Secretary of Defense, committed the United States to a war for which it was psychologically and politically unprepared.<sup>17</sup> UN action ultimately threatened the power base of the clan warlord Mohammed Farrah Aideed in Mogadishu, whose supporters subsequently lashed out and killed a contingent of 24 Pakistani soldiers. This resulted in a highly personalized UN-

sponsored vendetta against Aideed that ran counter to American interests and ultimately resulted in the withdrawal of U.S. forces.

Joint doctrine defines *strategy* as an “idea or set of ideas for employing the instruments of . . . power . . . to achieve . . . objectives.” This definition is narrow and incomplete given its apparent confusion over instruments of

power and the more common characterization of strategy as a deliberate planning process or behavioral pattern.<sup>18</sup> The primary goal of strategy is to provide a basis for understanding, analyzing, and articulating the links between capabilities, actions, and desired policy outcomes. As such, strategy represents an intellectual paradigm for a disciplined approach to achieving clarity and precision in the process of creatively employing resources to effectively achieve a policy or political outcome. This is not a prescription for independent military action; indeed, pursuing national policies requires the artful creation of militarily achievable objectives and operations. Since the fundamental goal of governmental action (for example, war) is to achieve policy ends, strategy by necessity has this as its objective. To wit, doctrine provides the “way” for achieving national policy “ends” using military “means” within an environment fraught with “risk.” In effect, strategy transcends the levels of war to conjoin the political, operational, and tactical levels. Strategic formation is multidimensional, requiring the consideration of all elements and instruments of power in its creation. Using this definition, strategy is *not* limited to any particular level of war or operational phase and, thus, serves as the fulcrum for a broad range of activities.

Joint doctrine provides an effective catalog of the participants and processes used in strategic formation, and JP 1 specifically tasks the combatant commanders with “thinking strategically” and preparing strategy. It falls short, however, in providing a useful strategic model, leaving the joint force practitioner in a quandary. Abhorring a vacuum, U.S. Army theorists developed the allegorical three-legged strategic stool while the U.S. Navy adopted the Bartlett circular depiction of strategy. These models, however, stress subtle but differing perspectives that can create conflicting approaches to national security issues. In the Army model, taught at the U.S. Army War College, each leg of the stool represents the means, ways, or ends, respectively.<sup>19</sup> Upon the stool’s seat rests “national security,” unless risk cuts away at one or more of the legs to render the platform unstable. This model makes explicit the need to reconcile ends, means, and ways to “balance the stool”; however, it provides little guidance on the origin or nature of risk.

Physical forces play a similar role in the model that figures prominently at the U.S. Naval War College.<sup>20</sup> Ends connect to means by strategy in the first arch of this circular model. In the second half, means and ends again

USS Princeton, USS John Paul Jones, and USS Pinckney transit behind USS Nimitz during Exercise Valiant Shield 2007



U.S. Navy (David L. Smart)

connect, this time through risk. Resource constraints and the security environment exist on the periphery to disrupt the circle's equilibrium. The Navy model's strength lies in stressing the continuous and iterative nature of the strategic formation process missing from the static Army model. It fundamentally differs from the Army model by closely equating strategy with ways. In so doing, the emphasis on a balanced approach stressed in the Army model is lost. While neither model is perfect, they share basic elements, although their emphases differ. Each theory represents a systematic approach to strategy, which implies that creativity and flexibility are required to achieve national interests.

Operational art, as delineated in JP 3-0, *Joint Operations*, comprises the components of the Army and Navy models and is, therefore, synonymous with strategy. It lacks, however, a coherent conceptual framework, even though the joint doctrine definition of strategy appears to adhere to the Navy model insofar as it places primacy on the ways—or “idea.” The recent “national” strategies proliferating from multiple agencies and departments all require close coordination to ensure that they achieve the desired levels of linkage and synergy. With no authoritative source or official policy on strategic formation, the risk of starkly differing approaches exists. The inevitable result is conflicting frames of reference across the various national security organizations. It is not entirely clear, for example, how the National Cyberspace Strategy's focus on sheltering commercial systems from “penetration” squares with the competing need for just such weaknesses against which to conduct the “offensive” operations advocated by our National Defense Strategy.<sup>21</sup>

Clausewitz counsels that “everything in strategy is very simple, but that does not mean that everything is very easy” to draw attention to the unwavering fortitude required for strategic implementation. But we have yet to get over the first hump—an agreed and coherent conceptual model of strategy.<sup>22</sup> Our future success depends on developing a unified and universally accepted strategic model. A synthesis of the Army and Navy models represents a useful start in developing such a common construct.

### Unified Action

Substantially revised and reissued on September 17, 2006, JP 3-0 represents a significant shift in joint doctrine by introducing a systems perspective, adopting an effects-based approach, and clarifying the role of operational art. These changes reflect the continued evolu-

tion of an innovative American approach to war that began at the conclusion of World War I. The industrial era ushered in an attritional style of warfare that, while only hinted at during the American Civil War, reached its bloody culmination in the trenches of Europe. In response to mass-produced carnage, theorists postulated an approach to warfare that bypassed the massed forces aligned along national peripheries to strike at the soft underbelly of the enemy's economic and psychological base. Early advocates of this new school of thought, which was labeled “strategic bombardment,” sought not the traditional destruction of the enemy (which they deemed impossible or impracticable) but instead focused on physical neutralization through moral paralysis.<sup>23</sup>

The change in operational thinking embodied in JP 3-0 traces its origins to the quest for paralysis advocated by Billy Mitchell and brought to culmination in the contemporary theories of John Boyd and John Warden.<sup>24</sup> Central to this approach is the existence of a complex system-of-systems susceptible to crippling attack.<sup>25</sup> Through the shotgun marriage of Clausewitz's “center-of-gravity” theory and the “enemy-as-a-system” concept, joint doctrine attempts to bridge the contradictions between war at the political level—governed by moral and psychological phenomena—and war at the tactical level—regulated by physical principles and rote mechanization.

But it is not entirely clear that this is a compatible marriage, as the Combined Bomber

Offensive approved by the Allied Combined Chiefs of Staff in May of 1943 aptly demonstrated. A panel of American and British “experts” examining the German economic, industrial, and military “system” concluded that striking “six systems, comprising 76 precision targets” would paralyze the Axis war effort.<sup>26</sup> Striking these target sets proved both costly and ineffectual in destroying German resistance; only the suicide of Adolph Hitler prompted by the Allies overrunning the Third Reich accomplished American war aims. By focusing on systems, the Americans and British dismissed any analysis of the enemy's center of gravity—in this case, Hitler himself. Even in hindsight, the postwar Strategic Bombing Survey erroneously focused on the Allies' target set choices instead of analyzing German centers of gravity for vulnerabilities—for example, by suggesting that “aircraft engine and propeller production rather than airframe assembly would have made a better bombing target” because they represented a production bottleneck.<sup>27</sup>

America's unique geopolitical position requires a military with the ability to respond quickly over great distances. This necessitates a force with an immediate global strike capability—both to slow an enemy offensive and demonstrate resolve—while tactical ground forces deploy to directly confront adversaries.<sup>28</sup> Today, the U.S. military increasingly views the former as a substitute for the latter, and many advocate its exclusive pursuit as the “new American way of war.” American political

Secretary of Defense and Chairman conduct press briefing at Pentagon



U.S. Navy (Chad McNealey)

culture, moreover, with its casualty aversion, technocentric concentration, and budgetary constraints, makes this a seductive approach. The result is a joint doctrine increasingly reliant on indirectly achieving psychological “effects” instead of the direct physical domination of the adversary. This new form of warfare has naturally found its greatest support within the Air Force and Navy as, respectively, effects-based operations (EBO) and sea strike. Indeed, the Air Force ostensibly recognizes the primacy of joint doctrine; nonetheless, it aggressively proselytizes its own doctrinal concepts—EBO being the most recent example.<sup>29</sup> Since the Navy lacks a doctrinal base, the EBO debate is primarily between ground- and airpower theorists.

The Air Force is seeking to go a step further and infuse joint air operations with the “3 Ds” of effects-based targeting—disruption, distribution, and duration—to create cascading, causal, cumulative, direct, function, indirect, operational, physical, psychological, strategic, systematic, second order, third order, or *n*<sup>th</sup> order effects while avoiding collateral or unintended effects.<sup>30</sup> While the recent inclusion of irregular warfare and homeland defense in JP 1 and JP 3–0 demonstrates that joint doctrine can articulate new threats, it is not entirely clear how the continued maturation of an effects-based approach will enhance the efficiency of the joint force. As a single-minded approach, this concept is both unverified in confronting the evolving security environment and unproven in creating the conditions necessary for achieving policy objectives in the face of protracted intransigence—as the recent American and Israeli experiences in the Middle East aptly demonstrate. These operations, in essence dealing with low-intensity insurgencies, show that there are no shortcuts to unilaterally effecting political outcomes when faced with a determined and capable adversary. Add in the U.S. experience in Kosovo, and it is clear that only a credible threat of physical destruction or the unconstrained domination of an opponent at the tactical level can accomplish objectives.<sup>31</sup>

In linking the systems approach to the operational level of war and stressing disruption over attrition, joint doctrine achieves a new degree of operational perception. Doctrine now envisions joint operations as integrating the abstract thinking of the political level and the mechanical aspect of combat found at the tactical level.<sup>32</sup> At this intermediary level, the outcome of tactical actions is viewed not as physical products—territory seized, enemies killed, or tonnage sunk—but as functional

effects—communications interrupted, combatants surrendered, or fighter aircraft fled. The desired result is impotence and capitulation. Shocking a system into paralysis requires a “swift conversion of the enemy to our aim,” but the simultaneous high tempo operations required (exemplified in the theory of parallel attack) are difficult to produce.<sup>33</sup> “Shock and awe” is an elusive metric; exactly how much shock and what kind are needed to generate the disruption, disintegration, and fragmentation required for paralysis and collapse is not clear. Shock, moreover, has yet to achieve primacy in joint doctrine, which still holds series attacks—the proverbial boiling frog approach—on an equal footing with simultaneity.

Critics of the systems approach point to its inability to account for thinking, active, and imaginative enemies as its central weakness. They contend that without making accommodations for the intricacies of human behavior, it is impossible to anticipate adversaries or emerge from a linear perspective of

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*America's unique geopolitical position requires a military with the ability to respond quickly over great distances*

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war. Systems, furthermore, do not behave like their individual components, nor are their cumulative effects easily quantified. Given joint doctrine's underlying assumption that system structures are identical, there is some question over whether the technocentric network model is the most appropriate representation for conceptualizing our efforts.<sup>34</sup> Human-centric models that take a dynamic, moral, and psychological approach are more appropriate and may include, for example, models based on a synthesis of contemporary approaches to organizational and human behavior found in McClelland's achievement needs, Herzberg's hygiene-motivator, or Maslow's needs hierarchy theories.<sup>35</sup> Systems thinking can only prove a useful guide if it correctly orients our actions toward influencing complex social and organizational behavior—a difficult proposition at best.<sup>36</sup> The critical question still unanswered, moreover, is whether a joint doctrine based on systems thinking bridges the philosophical differences between organizations over what constitutes an acceptable approach to future joint, interagency, and multinational operations.

Operational theory and principles serve to link policy with battles. Joint doctrine holds

that the operational level is a separate and distinct plane of warfare; however, it fails to discretely delineate bounds. Joint doctrine also struggles to rise above the tactical morass and surmount its overidentification with the mechanized aspects of war spawned by the various Services. An example of this occasional digression from the operational to the tactical level, and consequent lapse in effects-based thinking, is evident in the giddy expectation of a *coup de main* through the promotion of the “opportunity to encircle and annihilate a weaker or less mobile opponent” as an apparent end in itself. Joint doctrine still favors the tactical preference for offensive action. At the operational level, offense and defense become two sides of the same coin, both pursued with equal vigor depending on the political outcome desired.<sup>37</sup> They are the *yin* and *yang* of war—neither exists without the other, and each exhibits primacy according to the interplay of the protagonists. During the Cold War, for example, American strategists in the Pacific theater relied on defensive operations to counter the communists in Korea while remaining strongly committed to offensive operations in Vietnam.<sup>38</sup>

Finally, joint doctrine is essentially silent on the subject of operational reserves. During the Cold War, the American approach was to apply reserves against enemy success, while the Warsaw Pact employed theirs to buttress victory. But joint doctrine leaves both approaches unexamined. This omission is troubling since it reflects the uncritical acceptance of the premise that holding any forces in reserve is unnecessary in effects-based operations because the instantaneous collapse of the enemy makes such a force superfluous at best and an unconscionable squandering at worst. Mature operational thinking, however, requires the joint force commander to consider the role of a reserve when planning any operation or campaign.<sup>39</sup> Contemplating the purpose, generation, composition, placement, command, and employment of reserves is a prerequisite for a nuanced approach to operational design that is imprudently missing from current joint doctrine. Lacking joint doctrine on reserves handicaps the joint force by reducing the commander's flexibility to respond creatively to unforeseen events. This produces unacceptable levels of risk in today's uncertain and volatile environment. Properly construed, a reserve creates grand operational vistas that liberate the joint force commander while constraining our enemy's freedom of action.<sup>40</sup> The British,

for example, deftly used an air reserve during the Battle of Britain to stymie the Luftwaffe in 1940. But by omitting the subject of reserves, today's joint doctrine leaves the operational practitioner without the necessary insight to duplicate Air Marshal Dowding's success.<sup>41</sup>

Correctly calibrating joint doctrine's approach to strategy and operations is not merely an academic discussion, but it has far-reaching national security implications. The disagreement over target selection during the air phase of Operation *Allied Force* reflected the unresolved debate over the correct mental model of war that still bedevils Western military thinking. During that operation, senior military leaders remained divided over whether to psychologically strike Slobodan Milosevic and the Serbian elite in Belgrade or physically attack the ground forces engaged in ethnic cleansing.<sup>42</sup> The result was a potentially debilitating effect on the Alliance's unity of effort.<sup>43</sup> Operations in the former Yugoslavia highlight the danger of viewing the enemy as a target set (which if it was only bombed hard enough would capitulate) and distorting the nature of war.<sup>44</sup> In due course, the Alliance's political leaders were able to exert their influence to overcome these differences and ensure a successful political outcome.

Today, the challenge is greater and the threshold for error narrower. Our strategic cognition and operational perception must mature if we are to win the war on terror, and it is essential that joint doctrine serve as the basis for arranging our actions. A more holistic and synergistic approach to the instruments of power is critical if America is to capitalize on all available means. Ambiguous conceptual frameworks for strategy, furthermore, create organizational and interpersonal disharmony. A concise and universal strategic model is the ante for properly organizing our activities. The danger is that without clearly defined, explicitly understood, and consensually applied operational concepts, our foundation for warfare is flawed. The great shame of the American interagency process is that conflicting organizational agendas and interpersonal politics do not permit national unity of command below the Presidential level. This situation forces the pursuit of the lesser expedient of unified action based on negotiation and compromise—at best—in the quest for national security. We cannot expect this sad and dysfunctional condition to indefinitely escape the attention of the American people or their elected representatives. **JFQ**

## NOTES

<sup>1</sup> Joint Publication 1, *Doctrine for the Armed Forces of the United States* (Norfolk, VA: U.S. Joint Forces Command, May 14, 2007), i.

<sup>2</sup> Peter Paret, ed., *Makers of Modern Strategy* (Princeton: Princeton University Press, 1986), 128.

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# Attacking al Qaeda's Operational Centers of Gravity

By DAVID M. WITTY

**T**oday, Islamicist organizations are becoming more widespread and diffuse. They often lack a direct connection to al Qaeda's strategic leadership but are inspired by its ideology. Al Qaeda's operational role is subdued, but its ideological, propaganda, and support roles are critical to its affiliates. Many groups now adhere to the original goals and ideology of al Qaeda, which extends the scope of its influence well beyond that of the original organization, although al Qaeda itself is still considered the most dangerous of all transnational extremist groups and is America's principal enemy.<sup>1</sup>



Marines and Afghan fighters advance on Taliban positions, Operation Asbury Park

2<sup>nd</sup> Marine Expeditionary Unit (Keith A. Milks)

▲ Download as computer wallpaper at [ndupress.ndu.edu](http://ndupress.ndu.edu)

In U.S. joint doctrine, the basis for defeating an enemy is properly identifying its center of gravity (COG) and subsequently attacking it. This concept is applicable to the current war on terror. Al Qaeda is both an ideology and an organization providing operational level inspiration to insurgencies throughout the Muslim world. It has a strategic COG (ideology) and operational COGs (the ability to generate the support of local insurgents and populations). U.S. operational commanders can attack al Qaeda's operational COGs directly or indirectly through the decisive point of *consanguinity*, the ideological affinity between al Qaeda and local insurgents and populations. By designating consanguinity as a decisive point at the operational level and targeting it, one can attack al Qaeda's operational COGs and disconnect local insurgencies from the global insurgency.

### Goals, Ideology, and Basis of Support

Al Qaeda's goals and ideology are found in the writings and statements of Osama bin Laden and Ayman al-Zawahiri, to include a *fatwa*, or religious ruling, which bin Laden himself issued in 1998 declaring war on the United States. Other writings have also appeared by Islamic extremists with ties to bin Laden. They all represent a *Salafi* version of Sunni Islam: fundamentalist, puritanical, and advocating the end of secular governments in the Muslim world.<sup>2</sup>

There are five principal goals of al Qaeda:

- All U.S. and Western forces must be removed from the Arabian Peninsula, which contains Islam's holiest sites.
- All U.S. forces in Iraq, Afghanistan, and other Muslim lands must be expelled.
- America must stop its support of nations such as Russia, India, and China that oppress Muslims.
- America must stop its support of repressive Muslim states such as Saudi Arabia, Egypt, and Jordan, and stop its support of Israel.
- An Islamic caliphate under the rule of Islamic law must be established in an area corresponding to the historic Islamic empire.<sup>3</sup>

These goals, along with *Salafi* Islam, comprise the ideology of al Qaeda. Besides imposing Islamic law in an Islamic caliphate,

purged of Western influences, little is discussed. Specifics such as economics are not addressed, other than that the Muslim world's energy resources will be better used.

Ideology is the critical component of extremist movements; it can enable extremists to produce followers faster than they can be killed. However, only a small percentage of the world's 1.3 billion Muslims adhere to al Qaeda's ideology. Most Muslims do not want to live in an Islamic caliphate, and surveys show support among Muslims for Western principles such as elected governments and universal education, although many Muslims sympathize with the causes al Qaeda advocates.

### War on Terror as Counterinsurgency

Al Qaeda's jihad is best viewed as a global insurgency. Traditionally, an insurgency has sought to change the government in a single state; however, the global insurgency spans many countries and seeks change in the Islamic world. Its goal is to weaken Western influences, change the balance of power, and establish a caliphate. Al Qaeda integrates local grievances to create the ideological synergy of a global insurgency.<sup>4</sup> This ideology is applicable at local levels because it is based in the transnational Muslim consciousness. Local issues become part of a global perception of persecution requiring an obligation to fight.<sup>5</sup>

In operational theaters, through operational leaders, insurgents in one country cooperate and coordinate with those in another country. The operational leaders follow al Qaeda's ideology and strategic direction and receive financing and targeting data, and they share tactics, but al Qaeda does not directly control their actions.<sup>6</sup> There are numerous examples of these connected insurgencies. Abu Sayyaf insurgents in the Philippines, for example, have allied themselves with al Qaeda.<sup>7</sup> The Taliban in Afghanistan have a close relationship with al Qaeda. In Iraq, there are two major insurgent groups. The first are Iraqi Sunni insurgents who are nationalists and desire to restore a Ba'athist government. They are not concerned with jihad. The second group is al Qaeda insurgents, fighting to establish a caliphate. Some Iraqi nationalist insurgents have joined the al Qaeda insurgents, and others oppose them.<sup>8</sup>

Indeed, the war on terror is best described as a counterinsurgency rather than as a fight against terrorism. Terror is but one component of an insurgency, which usually includes subversion, sabotage, guerrilla

warfare, and propaganda operations. Besides military action, a counterinsurgency approach to the war on terror would include political, economic, psychological, and civic actions to address the causes of the insurgency since the presence of insurgents is a symptom of larger societal issues.<sup>9</sup> As noted, insurgency traditionally was thought of in terms of a single state, but now counterinsurgency doctrine recognizes global insurgency.<sup>10</sup>

*ideology is the critical component of extremist movements; it can enable extremists to produce followers faster than they can be killed*

Supplies are dropped to forward operating locations in Afghanistan near Pakistan border



### Centers of Gravity

In prosecuting a campaign, the concept of *center of gravity* is central in U.S. joint doctrine; the center of gravity, provides moral or physical strength to the enemy, and a sound campaign plan is based on its proper identification. One COG exists at each level of war—strategic, operational, and tactical. At the strategic level,

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the COG might be a military force, a leader, or national will. At the operational level, it is normally a military force, but it could also be associated with political, economic, social, or belief systems. Creating the proper effects in time and space to attack or neutralize the enemy's COG is the heart of operational art.<sup>11</sup>

A systems perspective analysis and the identification of decisive points are two other key concepts in campaign prosecution.

*initially, America misidentified al Qaeda's strategic center of gravity as its leadership—so U.S. strategy focused on eliminating al Qaeda's leaders*

A systems perspective analysis provides an understanding of the interrelated political, social, military, economic, and informational systems. Each system contains nodes and links. Nodes are generally physical, such as people, materiel, or facilities. Links connect nodes and are behavioral or functional; they could be a command relationship or an ideology. A decisive point is a location, event, factor, behavior, or function that, when attacked, gives a marked advantage over an opponent. A decisive point might be a node or a link. Decisive points are not COGs but are the keys to attacking them. The operational environment must be analyzed to determine systems and their nodes and links that can be targeted to affect the COG. These become decisive points.<sup>12</sup> The proper application of these concepts can be difficult. Cultural

challenges complicate the process when they involve an opponent whose beliefs about morality or the value of life are different from one's own. What is fanatical to some might be normal to one's adversaries.<sup>13</sup>

Initially, America misidentified al Qaeda's strategic COG in the war on terror as its leadership—so U.S. strategy focused on eliminating al Qaeda's leaders.<sup>14</sup> Moreover, the war on terror was viewed as counterterrorism; therefore, it focused on eliminating terrorist leaders. In reality, even if bin Laden were killed, his death would have had little impact since there were others to take his place.<sup>15</sup> Today, however, the U.S. national-strategic leadership has properly identified al Qaeda's strategic COG as its ideology, and countering it is a priority. Ideology provides global support and recruits and connects local Islamic insurgencies to the global insurgency. It is through the synergy gained by connecting and combining insurgencies at the theater of operations and state levels to the strategic level that enables al Qaeda to wage global insurgency.

In U.S. counterinsurgency doctrine, an insurgency's COG in almost every case is its ability to generate and sustain popular support among the population. Popular support results in insurgent safe havens, freedom of movement, logistics support, intelligence, and recruits.<sup>16</sup> When applying the counterinsurgency concept to the war on terror, one should view al Qaeda's operational COG as its ability to generate the support of local insurgents and populations in the theaters of operations and in specific countries. In any specific insurgency,

the principal node is the local insurgents/populations who either support or oppose al Qaeda-associated insurgents. The link that connects al Qaeda's operational COG to the local insurgents/populations node is the link of *consanguinity*, which is defined as the relationship between al Qaeda and local insurgents/populations based on an ideological affinity. Here the link of consanguinity is unifying Muslims to resist perceived Western persecution. Consanguinity unites the support of local insurgents/populations in many insurgencies with al Qaeda jihadi insurgents operating at the tactical and operational levels, who in turn connect to al Qaeda's strategic leadership.

Disconnecting local insurgencies from the global insurgency fulfills what David Kilcullen calls a *strategy of disaggregation*, which seeks to break the connection between the operational/tactical levels and the strategic level that enables the insurgency to function globally.<sup>17</sup> The local insurgency will still exist, but it will no longer contribute to the synergy of global insurgency. It is also possible that local insurgents/populations will continue to cooperate with al Qaeda insurgents because both might have mutual short-term goals, such as ending a foreign occupation or overthrowing a particular government. However, if the link between al Qaeda and local insurgents/populations is based merely on pragmatism and not on ideological affinity, the link will eventually dissolve on its own since local insurgents/populations will not support al Qaeda's ultimate goal of establishing a caliphate.

### Strengthening or Weakening Operational COGs?

Actions at the national-strategic level can have unintended consequences at the

**Left: Soldiers clear house during mission to take insurgent stronghold in Baghdad**  
**Right: Afghan village believed to be sanctuary for al Qaeda and Taliban groups**



U.S. Army (Robert Baumgartner)



982nd Signal Company, Combat Camera (Joe Belcher)

operational and tactical levels. Likewise, purely tactical or operational acts can quickly impact the national-strategic level. For example, in September 2006, Pope Benedict XVI, while giving a lecture in Germany, quoted a Byzantine emperor who had characterized Islam as “evil and inhuman.” This comment sparked protests throughout the Muslim world,<sup>18</sup> and its unintended consequences strengthened al Qaeda’s operational COGs, resulting in greater jihadi insurgent support since the West was perceived as attacking Islam and a response was required. In another instance, a popular Arabic language newspaper published in Egypt, *El-Sha’b*, headlined a story in September 2006 stating that U.S. Soldiers had massacred an Iraqi family, including two pregnant women, while the family was eating breakfast.<sup>19</sup> Although the validity of this story from the tactical level is questionable, it had operational impact since America was described as attacking innocent Muslims, which in turn strengthened al Qaeda’s operational COGs since local insurgents/populations will respond to perceived U.S. hostility.

It is imperative that the war on terror not be perceived as a clash of civilizations between the West and Islam since that would further strengthen al Qaeda’s operational COGs. Current American strategy emphasizes that the war on terror is a war of *ideas* but not of *religions*.<sup>20</sup> However, comments made by the U.S. national-strategic leadership stating that Muslim terrorists attacked America because they hated its freedom have contributed to the perception of a clash of civilizations. Bin Laden has said he is not attacking America because of its freedom but because of U.S. actions in the Muslim world.<sup>21</sup> Following the 9/11 attacks, many Muslims supported the U.S. occupation of Afghanistan, but others argue that many American actions since 9/11 have increased al Qaeda’s appeal.<sup>22</sup> U.S. unilateral acts, or acts without Muslim coalition partners, have strengthened al Qaeda’s operational COGs. At the other extreme, some U.S. acts, such as humanitarian assistance provided to tsunami victims, swung Muslim opinion in favor of America.<sup>23</sup>

## Recommendations

An operational commander can only attempt to attack the operational COG through the consanguinity link between the local insurgents/population and global jihadi insurgents in his theater of operations. It is the responsibility of others to engage the global insurgency

at the national-strategic level.<sup>24</sup> An operational commander must recognize that his actions can have strategic effects and that actions by national-strategic actors can have effects at the operational level. The operational commander must visualize potential unforeseen consequences and avoid actions that might inadvertently strengthen the enemy’s COGs.

An operational commander can attack al Qaeda’s operational COGs directly or indirectly through the decisive point of consanguinity. Indirect attacks are those that increase the legitimacy of the host nation facing the insurgency or the legitimacy of partner nations or U.S. forces supporting the host nation. If the nation is perceived as legitimate, it is meeting its people’s needs; there is no reason to change the government and no need to seek a link with al Qaeda. A second means of indirect attack through consanguinity is to create or exploit differences between local insurgents/populations and al Qaeda. This will cause local insurgents/populations to view al Qaeda’s means and goals as inconsistent with their own. Direct attacks on the operational COGs through consanguinity are those that offer a counterideology to or discredit al Qaeda’s ideology, which will make al Qaeda jihadi insurgents less attractive to local insurgents/populations.

Legitimacy is best achieved by employing the forces of Muslim partner nations or the indigenous forces of the host nation confronting the insurgency. These forces must be perceived as capable of addressing problems without direct U.S. involvement, even if they are not. While U.S. strategy states that the use of force can counter ideology, overt and unilateral U.S. actions will weaken the host nation’s legitimacy and strengthen al Qaeda’s operational COGs by drawing the population closer to jihadi insurgents since America will be viewed as hostile.<sup>25</sup> In addition, unilateral, non-Muslim actions against a Muslim nation or community can make it a religious obligation for Muslims to resist.<sup>26</sup>

There are numerous examples of the successful use of indigenous Muslim forces or the forces of Muslim partner nations that have strengthened legitimacy. The Jordanian army has trained Iraqi counterterrorist forces in Jordan, staffed a military hospital in Iraq, and sealed the Iraqi-Jordanian border,<sup>27</sup> which added legitimacy to U.S. actions in Iraq. Sudan, despite being a state sponsor of terror, has arrested al Qaeda members and eliminated training camps in its territory.<sup>28</sup> Yemen, with mainly indirect U.S. involvement, has been successful in fighting al Qaeda extremists.

*an operational commander can attack al Qaeda’s operational centers of gravity directly or indirectly through the decisive point of consanguinity*

DOD (Brett Costa)



Iraqi soldier stands security during operation to detain suspected terrorist leaders of insurgent force in Baghdad

Its counterterrorist unit, trained by the United States, has killed or captured al Qaeda members, and al Qaeda's pre-9/11 leadership in Yemen has been eliminated. However, there has been a backlash against the Yemeni government's cooperation with America due to Yemeni detainees at Guantanamo Bay and U.S. policy toward Iraq and Israel.<sup>29</sup> An operational commander must consider that even limited, open assistance or host nation support to America can have negative impacts and unforeseen consequences.

Another example of creating legitimacy through cooperation with partners is Combined Joint Task Force–Horn of Africa (CJTF–HOA), based in Djibouti. Its mission is to deny extremists a base and to create security in an area with weak governments and poverty where al Qaeda has historically operated. CJTF–HOA's footprint is small, but its area of operations includes the Horn of Africa and Yemen. It works with the nations of this region, except Sudan and Somalia, to increase legitimacy through improving living conditions and training local security forces to fight insurgents. The task force's combat operations are conducted discreetly or through partner nations.<sup>30</sup> In December 2006, Ethiopian forces, tacitly supported by the task force, invaded Somalia to recapture territory controlled by Islamist forces connected to al Qaeda; this action was followed by a U.S. gunship attack on a target in southern Somalia in January 2007.<sup>31</sup>

While the operational commander should employ indigenous or Muslim partners and assist them in a supporting role, this will not always be possible. Sometimes unilateral operations will be necessary. Mechanisms should then be planned to maintain the legitimacy of a host nation or partners.<sup>32</sup> This can be achieved through U.S. low-visibility operations that are below public awareness or that create the impression that a partner nation conducted the operation. Actions without visible U.S. presence could include intelligence operations, legal support, and the use of Special Operations Forces (SOF). Ongoing U.S. SOF operations in the Philippines are an example.<sup>33</sup> If there are still occasions when U.S. forces must conduct operations unilaterally and overtly without the presence of any Muslim partner, an operational commander should plan to quickly replace U.S. forces with Muslim forces to preserve as much legitimacy as possible.

Humanitarian assistance and other civil-military operations can be used to create legitimacy for the host nation facing an insur-

gency, but these must be orchestrated to show that a nation is meeting the needs of its people without being coopted by America. If a government addresses its people's needs, they will not turn to extremists. An operational commander should also attempt to reintegrate local insurgents into mainstream society, which increases the legitimacy of the host nation government in the eyes of the local insurgents/population. In Afghanistan, it is possible to be a moderate Taliban member and still support the Afghan government; allowing moderate opponents to participate in the political process will prevent them from supporting the insurgency.<sup>34</sup> In situations where U.S. forces are operating overtly, such as in Iraq, the host nation must be portrayed as in control. For example, an Iraqi

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*most local insurgents have their own agendas and some wish to have no al Qaeda connection so that their movements will be seen as nationalistic*

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investigation of possible U.S. human rights abuses will help establish the Iraqi government as legitimate.<sup>35</sup>

Another means to indirectly attack the operational COG through the decisive point of consanguinity between local insurgents/populations and al Qaeda is to exploit their differences. At operational and tactical levels, most local insurgents have their own agendas and some wish to have no al Qaeda connection so that their movements will be seen as nationalistic. It is also possible at the operational level to exploit divisions within al Qaeda itself or differences between al Qaeda and other extremists. Some non-al Qaeda extremists have condemned al Qaeda's methods since they believe the group is hurting Islam.<sup>36</sup>

Abu Musab al-Zarqawi was al Qaeda's operational commander in Iraq. Unlike other senior al Qaeda leaders, he favored attacks on the Shi'a, and he believed that ordinary Sunni Iraqis could be targeted to create terror. His extreme methods drove some Sunnis away and divided al Qaeda in Iraq. Within extremist circles, his attacks on Muslims became a source of contention. One extremist ideologue, Abu Muhammad al-Maqdisi, condemned Zarqawi's methods, which were turning the world against Muslims. Al-Maqdisi advised jihadis not to go to Iraq.<sup>37</sup> In July 2005, Zawahiri sent a letter to Zarqawi, which was intercepted. In it, he

told Zarqawi to stop attacks on the Shi'a and to stop killing hostages. Zarqawi continued his methods, and al Qaeda strategic leaders told jihadis to go elsewhere instead of Iraq.<sup>38</sup>

In Iraq, Zarqawi used Fallujah as his base, but some of its citizens disagreed with his methods and his extreme *Salafi* beliefs. The Ba'athist insurgents of Fallujah wanted to end the U.S. occupation of Iraq but disapproved of Zarqawi's kidnappings, indiscriminate bombings, and destruction of Iraq's infrastructure. Fighting began between al Qaeda and Ba'athists in Fallujah, which the U.S. Joint Psychological Operations Task Force exploited to increase tensions. However, when attempting to split insurgent groups, an operational commander should ensure that he will not worsen the situation; exploiting Sunni-Shi'a differences would not be beneficial and could lead to civil war. In fact, civil war, accelerated by al Qaeda jihadis and the Shi'a opposition, describes key characteristics of violence in Iraq today.<sup>39</sup>

Information operations (IO) can directly or indirectly attack the operational COGs through the consanguinity link. All IO assets should be used in concert with public diplomacy, public affairs, and interagency assets to achieve a synergetic communications effect. Through the link of consanguinity, IO can indirectly attack the COGs by creating legitimacy for U.S. military assistance to Muslim nations. The theme can stress that nearly 7 million Muslims live in America where freedom of religion is protected. Muslims are integrated into American society, are respected, and enjoy a high standard of living. The theme would also stress that America has never engaged in religious wars and has never proselytized Christianity. America has provided aid and military assistance to Muslim societies and ended the ethnic cleansing attacks against Muslims in the former Yugoslavia.

An IO theme to directly attack al Qaeda's operational COGs through consanguinity is to portray life in an imagined Islamic caliphate, which many Muslims would not prefer. Life without Western products, access to a Western-style education, or any Western influences is not what most desire. This IO campaign should incorporate moderate Muslim clerics who can explain that al Qaeda's ideology is un-Islamic and that warfare as depicted in the Koran is generally compatible with the spirit of international law and the Geneva Conventions: it forbids hostilities against noncombatants and attacks such as those that occurred on 9/11.<sup>40</sup>

This combined information campaign would do more harm to al Qaeda's operational COGs than any exclusively U.S. efforts. Attempts should also be made to coopt universities, mosques, and religious schools to promote a counterideology to al Qaeda.

While we believe that democracy is the ultimate answer to extremism, terrorism, and insurgency, it should be applied with restraint in Muslim societies. An operational commander should avoid trying to reshape a Muslim nation into a semblance of America. Of the 57 member states of the Organization of the Islamic Conference, only Turkey has a long-functioning democracy, and no clear separation of religion and government exists in Islam. It would be hard for Muslims to establish a democracy without religious elements. In Afghanistan, attempts to impose Western-style democracy, religious tolerance, and gender rights are fundamentally counter to the culture, and these efforts are strengthening al Qaeda's support.

America must use extreme restraint when conducting unilateral, overt combat operations in the Muslim world since such actions will strengthen al Qaeda's operational COGs. While historical examples of Western success with a unilateral, overt approach in the Muslim world exist, we live in an age of real-time communications. What occurs in one Muslim nation occurs in all Muslim nations through a Muslim global consciousness that demands resistance to perceived hostility. Attacks on al Qaeda's operational COGs through the decisive point of consensus offer the best chance of weakening the COGs, since most other U.S. actions will only strengthen them. **JFQ**

## NOTES

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<sup>33</sup> O'Quinn, 19–24.

<sup>34</sup> Celeski, 78.

<sup>35</sup> Cordesman, 1.

<sup>36</sup> Wright, 59.

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# Pakistan's Inter-Services Intelligence Directorate

## A State within a State?

By MARK J. ROBERTS

Standing at the crossroads of South, Southwest, and Central Asia, Pakistan is strategically important to the United States. Vice President Richard Nixon recognized the country's significance for Cold War containment in 1953,<sup>1</sup> envisioning it as a linchpin to contain Communist influence in Afghanistan and a "Northern Tier" buffer<sup>2</sup> against Soviet hegemony. In the 1950s and 1960s, the United States pursued military alliances to thwart Soviet and Chinese regional intentions,<sup>3</sup> including placement of National Security Agency facilities in Pakistan.<sup>4</sup> Francis Gary Powers' U-2 reconnaissance aircraft shot down over the Soviet Union in 1960 flew from Peshawar, Pakistan.<sup>5</sup>

After the Khomeini revolution in 1979, the United States lost access to Iran-based electronic surveillance. Pakistani President Zia ul-Haq agreed to intelligence cooperation, strengthening U.S. relations with his Directorate for Inter-Services Intelligence (ISI).<sup>6</sup> President Zia needed to enhance his weak standing and Islamist credentials within Pakistan. U.S. aid burnished his anti-Communist qualifications with Pakistani Islamists and Washington,

AP/Wide World Photo (Musadeq Sadeq)



Teenage boy, trained by Pakistani *madrasa* as suicide bomber, is held in Afghanistan after failed attempt to kill Afghan governor

AP/Wide World Photo (Inter Services Public Relations)



President General Pervez Musharraf (front) and former chief of Inter Services Intelligence General Ashfaq Parveez Kayani attend national command authority ceremony

while procuring American military aid increased his prestige with the military.

When the Soviet Union invaded Afghanistan in 1979, President Jimmy Carter declared Pakistan a Cold War “frontline state,” supplying Islamabad with arms for a mujahideen proxy war.<sup>7</sup> This covert action as a foreign policy tool, appropriate in a Cold War prism, would later bear unintended consequences, such as transnational terrorist networks.<sup>8</sup> After the Soviets left Afghanistan in 1989, U.S.-Pakistani relations declined in the environment of growing Islamic radicalism, perceptions that the United States favored India in Kashmir, lack of democratic reforms, and Islamabad’s nuclear program.<sup>9</sup> After the 9/11 attacks, Pakistan became a vital partner in U.S. counterterrorism operations in Afghanistan.

### Soviets in Afghanistan

The Afghan invasion placed President Carter in a strategic predicament. Reeling from Islamic revolution in Iran, loss of key regional ally Shah Reza Pahlavi, and a hostage crisis, he needed to stem a hemorrhaging foreign policy. He worried the Soviets might soon gain access to warm water ports and control the availability of Persian Gulf energy.

In his 1980 State of the Union address, the President articulated the Carter Doctrine, pledging to defend Persian Gulf territorial integrity and support anti-Communists in Afghanistan.<sup>10</sup> Pakistan under President Zia attained strategic significance as a regional ally to thwart Soviet intentions. Although President Carter, a human rights advocate, had criticized Zia’s authoritarian rule, he found a willing partner to fight Soviet expansionism. President Carter obtained permission to funnel arms to “Afghan freedom fighters” through Pakistan. Zia shared his counterpart’s view that the Soviets in Afghanistan were a threat, but for different reasons.<sup>11</sup> Washington viewed relationships with Islamabad in a global, strategic Cold War context; Islamabad perceived the same relationships through a regional security prism vis-à-vis India.<sup>12</sup>

Money and weapons soon flowed into Pakistan from the United States and the Muslim and Arab worlds. When supplies appeared in Karachi, ISI took control, transporting them to a depot near Islamabad, divid-

ing them for transport to the Afghan border, and distributing them.<sup>13</sup>

The United States used ISI as a weapons and material distribution conduit to deny its own involvement.<sup>14</sup> ISI established control of allotting financial aid, weapons, and material support to the mujahideen.<sup>15</sup> By deciding who got what and why, it manipulated mujahideen factions,<sup>16</sup> hampering Central Intelligence Agency (CIA) influence.<sup>17</sup> The United States had plausible deniability regarding Afghanistan, but it abdicated responsibility for and denied itself firsthand knowledge of Afghan affairs, with eventual lethal consequences.

This arrangement afforded ISI exploitable leverage as its “domestic political role of manipulating the regime’s allies and intimidating its opponents was now cloaked by the legitimate external function of fighting the ‘evil’ Soviet empire.”<sup>18</sup> ISI ran internal security, clandestine operations, and anti-Indian activities. As it exchanged intelligence with the CIA, its domestic power and influence increased.<sup>19</sup> It became more independent and less accountable, disdaining legislative or judicial scrutiny.<sup>20</sup>

Zia kept the “water warm, not boiling hot” in Afghanistan; he wanted to apply constant pressure on the Soviets without bringing

### *Pakistan under President Zia attained strategic significance as a regional ally to thwart Soviet intentions*

reprisals.<sup>21</sup> ISI psychological warfare experts ran a propaganda campaign, citing “Islam in Danger” and “Holy War,” rallying the faithful to fight Soviet infidels.<sup>22</sup>

When distributing equipment, ISI favored ethnic Pashtuns espousing Islamist ideologies and conforming to ISI operational guidance. It established camps to train mujahideen<sup>23</sup> and sometimes accompanied them on combat operations to gauge which factions were “effective.” Under Zia’s control, it micro-managed the proxy war and enjoyed latitude and leverage, controlling the flow of U.S. aid. American advisors wanted arms distributed to proficient fighters, but ISI favored “more effective” Islamist guerrillas. In perspective, “it is hard to determine what would constitute an objective criteria [sic] for operational effectiveness, but it seems that much was left to the discretion of the Pakistani strategists.”<sup>24</sup>

ISI was the principal power broker in Pakistan and the “most effective intelligence

agency in the Third World.”<sup>25</sup> As its influence grew, it was “never richer or more powerful,” carrying out its own agenda.<sup>26</sup> In 1983, ISI officers in Southwest Pakistan were removed for diverting mujahideen-bound arms.<sup>27</sup> Throughout the war, the CIA dealt with ISI corruption as weapons intended for Afghans were diverted for profit; in at least one case, the Pakistani army actually sold the CIA its own materials.<sup>28</sup>

Due to the number of Afghans flooding into Pakistan, ISI forced militias and émigrés to associate themselves with various factions to qualify for supplies, food, and aid. Gulbuddin Hekmatyar and Burhanuddin Rabbani commanded the two largest factions, with approximately 80,000 followers each.<sup>29</sup> Afghan commanders Ahmed Shah Massoud and Ismael Kahn were more autonomous, conducting operations dependent on combat environment, not Islamist doctrine.<sup>30</sup>

ISI’s Afghan bureau became “one of the richest and most powerful units in the entire Pakistan army.” ISI wanted allied mujahideen ruling a friendly Kabul regime for strategic depth against perennial nemesis New Delhi and a secure western flank.

### Radicalism Spreads

During the 1980s, militants poured into Pakistan from the Muslim world, including Palestinian teacher and preacher Abdullah Azzam, who had taught in Jordan and Saudi Arabia, preaching Muslims’ duty to wage jihad.<sup>31</sup> One of his students was Osama bin Laden. Azzam created Maktab al-Khidmat (Services Office or MK) in Peshawar to recruit Arabs and raise funds. Bin Laden, with ISI ties, was a key MK organizer.<sup>32</sup> Under bin Laden, MK transformed into al Qaeda. ISI Director General Akhtar Abdul Rahman personally met with him many times, providing money and intelligence.<sup>33</sup>

Warlord Gulbuddin Hekmatyar received ISI aid and was assessed as one of the most effective mujahideen leaders.<sup>34</sup> Since the United States depended on ISI to distribute materials and conduct the proxy war, Washington remained disengaged, creating “a policy void which radical elements in the ISI eagerly filled.”<sup>35</sup> ISI profited from “independence not equaled by any other branch of the armed services, nor was it always subject to constraints imposed by the President.”<sup>36</sup>

ISI manipulation of Afghan mujahideen factions angered Ahmed Shah Massoud, one of the most successful jihad commanders. The Soviets deemed Massoud, who commanded over 20,000 troops, an unbeatable master of

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guerrilla warfare. Massoud resented ISI dabbling, stating that "strategic direction of the war should be left to the Afghans to decide rather than the ISI."<sup>37</sup> Massoud detested ISI control over economic and military assistance, which favored Islamist groups over secular factions.<sup>38</sup>

*since the United States depended on ISI to distribute materials and conduct the proxy war, Washington remained disengaged*

Zia and ISI preferred militant mujahideen, thinking their zeal helped them fight vigorously.<sup>39</sup> ISI created a network of over 400 mujahideen commanders, supplying them with weapons and materiel<sup>40</sup> while diverting unknown quantities.<sup>41</sup> An explosion at the ammunition depot near Islamabad before a Washington auditing team arrived in 1988 raised suspicions that ISI staged the event to conceal unexplainable inventory discrepancies.<sup>42</sup>

After Zia's death in August 1988, ISI dominated Pakistani dealings in Afghanistan, supporting Islamists forming the Taliban.<sup>43</sup> Factions in ISI promoted tactics such as "the same trucks . . . used to deliver weapons and ammunition for the Afghan fighters from depots

in Islamabad and Karachi went back packed with heroin destined for Western markets and Pakistan's own city dwellers."<sup>44</sup> Within Afghanistan, ISI continued to support the most radical factions, such as Hekmatyar's.<sup>45</sup>

### Mujahideen Dispersal, Afghan Blowback

In 1989, the Soviets left Afghanistan, worn down by 10 years of fighting. The ISI-CIA joint venture helped force the withdrawal. ISI was "an army within an army" with weapons, financial resources, access to current technology, and unparalleled authority. The CIA relationship, coupled with U.S. and Saudi funding, made ISI Pakistan's most powerful entity.<sup>46</sup>

After Russia departed Afghanistan, the United States "left" Pakistan to cope with thousands of trained, armed, and battle-hardened militants who espoused radical Islamist ideology and who had no place to go,<sup>47</sup> mingling with millions of refugees. The unintended consequences of the ISI-CIA partnership became transnational terrorism networks which ISI inflamed. Pakistani President Pervez Musharraf observed:

*We helped created the mujahideen, fired them with religious zeal in seminaries, armed them, paid them, fed them, and sent them to a jihad against the Soviet Union in Afghanistan. We*

*did not stop to think how we would divert them to productive life after the jihad was won. This mistake cost Afghanistan and Pakistan more dearly than any other country. Neither did the United States realize what a rich, educated person like Osama bin Laden might later do with the organization that we all had enabled him to establish.*<sup>48</sup>

ISI was now a stronger, more effective intelligence apparatus with ties to extremist groups. It began aiding militants in Kashmir,<sup>49</sup> fomenting pervasive instability and violence. ISI also stayed involved in Afghanistan.

The United States left Pakistan instead of attempting to contain ISI support for extremists, broker peace agreements among warring Afghan factions, or work toward regional stability. Michael Rubin observed, "Washington could have more effectively pressured Pakistan to tone down support for Islamic fundamentalism, especially after the rise of the Taliban. Instead, Washington ceded her responsibility and gave Pakistan a sphere of influence in Afghanistan unlimited by any other foreign pressure."<sup>50</sup>

U.S. diplomats later realized that by letting ISI run Afghanistan and ignoring the region, Washington helped create long-term dilemmas. These included bin Laden, al Qaeda, the Taliban, Afghan volatility, Pakistani instability, Kashmiri terror, nuclear tensions, A.Q. Khan's nuclear sales to terrorist states, and pendulum swings between dictatorship and democracy.

### Bin Laden, al Qaeda, and the Taliban

In 1996, Osama bin Laden settled in Afghanistan. He met an ISI representative, who proposed an alliance between bin Laden's network and the Taliban. ISI and bin Laden assisted the Taliban, which won the Afghan civil war in 1996, achieving ISI's aim of a sympathetic government in Kabul.<sup>51</sup>

In 1997, ISI asked Saudi intelligence for permission to sponsor bin Laden. As Riyadh was a generous patron of Pakistani military projects, ISI wanted to ensure that after the November 1995 and June 1996 anti-U.S. terrorist attacks in Saudi Arabia the Saudi government would not oppose the relationship. Riyadh did not.

ISI took Saudi money to fund *madrasas*, which indoctrinated extremists, providing militants to fight India in Kashmir. *Madrasas* became recruiting and training pipelines whose graduates played key roles in the Taliban and Kashmiri terrorist groups. They



Pakistani tribal militants, calling themselves mujahideen, raid store in village near Afghan border to enforce strict Islamic law

AP/Wide World Photo (Haj Habibullah Khan)

expanded because Pakistan did not invest in public education and other schools were not economically feasible. Graduating extremist students, *madrassas* taught few practical skills and contributed little to Pakistan's economic, political, or social development. The "network of madrassas became the nursery where the Taliban was raised. Once the Taliban gained momentum in Afghanistan, they became independent of ISI. The impact on Pakistan was that its permeable borders couldn't isolate the religious sectarianism Pakistan nurtured in Afghanistan."<sup>52</sup>

Within ISI's ranks were many al Qaeda and Taliban sympathizers who organized and funded the Taliban. Ties to the Taliban and bin Laden left a ubiquitous ISI presence in Afghanistan as the directorate continued to recruit militants for Kashmir.<sup>53</sup> Its ranks were penetrated with pro-al Qaeda and pro-Taliban officers to the extent that intelligence ISI provided to the CIA on bin Laden and the Taliban was tainted.

U.S. intelligence knew of links between ISI, the Taliban, bin Laden, and al Qaeda to coordinate training in Afghan camps for Kashmiri militants, and ISI was suspected of providing equipment and funding to operate them.<sup>54</sup> In Pakistan, ISI was "too powerful for the government of the day to question and too intrusive for any army chief of staff to clean up."<sup>55</sup>

The Taliban went its own way; having used Pakistani benefactors to gain power, it heeded Islamabad's influence even less.

### ISI Involvement in Kashmir

During the 1980s, President Zia employed ISI to "organize, fund, and train Kashmiris, using Islam to motivate them" as part of his "Islamicization" campaign.<sup>56</sup> However, his influence began to fade

*to the extent that ISI was free from the normal constraints imposed by the chain of command. Emboldened by this autonomy, the ISI saw no reason why it could not apply the same tactics in Kashmir. If the Soviet superpower could be humbled, the Indian behemoth could be compelled to seek a compromise solution on its outstanding differences with Pakistan.*<sup>57</sup>

After Zia's death, ISI control over Afghan groups continued as it supported militant groups in Kashmir and anti-India operations. It trained Kashmiri dissidents and permitted Pakistan-based Islamists to conduct operations in Kashmir as "Kashmir became the new 'jihad' and the Hindus the new 'infidels.'"<sup>58</sup>

During the 1990s, ISI fomented terrorism in Kashmir. Using expertise obtained during the Afghan war, it organized, trained, and equipped "freedom fighters"<sup>59</sup> to infiltrate Kashmir. Based on success against the Soviets, it modeled its Kashmir campaign on the Afghan jihad. ISI sponsored Kashmiri mujahideen to use low intensity conflict to force a political settlement with India.

In 1990, ISI operated 30 training camps for Kashmiri militants.<sup>60</sup> By 2002, there were 128 ISI-sponsored camps training militants to fight in Kashmir. Approximately 1,000 members of Harakat-ul-Mujahideen, Jaish-e-Muhammad (JEM), and Lashkar-e-Taiba (LET) received training each year. Since Islamabad thought it lacked strategic depth vis-à-vis conventional conflict with India, tying down Indian forces in Kashmir asymmetrically prevented them from engaging Pakistan elsewhere. Basing the fighters in Afghanistan, Pakistan created plausible deniability, strategic depth, and a "friendly" state bolstering its western flank.

Washington warned Islamabad that continued ISI support for insurgents in Kashmir would damage bilateral relations. In 1993, the United States placed Islamabad on the terrorism "watch list" due to ISI support for Kashmiri insurgent groups, which threatened regional stability. The next step was to formally declare Pakistan a state sponsor of terrorism. Under

Islamabad exploited relationships with the Taliban to use Afghan training facilities for Kashmir-bound mujahideen.<sup>65</sup> ISI convinced the Taliban to relinquish control of al Qaeda camps to bin Laden, which the Taliban exploited, knowing Pakistan would "deny them nothing, as long as they provided bases for Kashmiri and Pakistani militants."<sup>66</sup> Although Pakistan allied with the Taliban to provide strategic depth against India, it provided strategic depth to the Taliban.

Pakistan increased pressure on Indian-controlled Kashmir, raising the operational tempo of attacks and compelling India to send more forces, tying them down while raising Kashmiri issues with the international community. ISI augmented Kashmiri native fighters with militants educated in Pakistani *madrassas* and trained in Afghan al Qaeda camps.<sup>67</sup>

ISI's training of militants in Afghanistan to fight in Kashmir gave Islamabad plausible deniability against Indian terror sponsorship claims. After bin Laden returned to Afghanistan, ISI sent militants destined to fight in Kashmir through his training camps. ISI subsidized the camps and wired bin Laden's house for security.<sup>68</sup> Ties to Kashmiri militants were endangered when Prime Minister Sharif sought improved relations with India. He was opposed not by New Delhi, but by ISI, which feared that increased trade between India and

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*in 1996, Osama bin Laden met an ISI representative, who proposed an alliance between bin Laden's network and the Taliban*

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pressure from Washington, Prime Minister Nawaz Sharif stifled activity by militants, in some cases sending them back to Afghanistan. Operating from eastern Afghanistan, the militants enjoyed privatized support as Islamabad tried to distance itself from its own proxy warriors. During that period, bin Laden became a sponsor of Kashmiri militants.

Pakistani support to Kashmiri jihadists "fundamentally changed the nature of the struggle. . . . Pakistani backing enabled the Kashmiris to sustain and expand what otherwise might have been a limited and short-lived struggle."<sup>61</sup> This expanded the conflict's scope by "helping organize and insert large numbers of foreign militants into the struggle."<sup>62</sup> The foreign fighters were "trained in the killing fields of Afghanistan and paid and supplied" by ISI.<sup>63</sup> As late as 2002, 25 to 50 percent of the terrorists fighting in Kashmir were ISI-recruited foreign fighters, not Kashmiris.<sup>64</sup>

Pakistan would jeopardize ongoing operations in Afghanistan and Kashmir.<sup>69</sup>

When the United States retaliated against bin Laden-related sites in Sudan and Afghanistan for the East Africa bombings, U.S. officials gave Pakistan notice that cruise missiles would overfly Pakistani airspace. While bin Laden escaped, the missiles hit two ISI training camps in Afghanistan, killing 5 ISI officers and 20 trainees.<sup>70</sup> ISI support for extremism continued to the extent that:

*Pakistani secret services encouraged splits in the radical movements. This was partly to be able to control them better, but also in order to cover the tracks left by their operations. The Jaish-i-Mohammad was apparently set up with ISI support as a counterweight to the Lashkar-i-Taiba, which had become too powerful in Kashmir. This was a relative setback, since far from reining in the tempo of terrorist action it*

*caused the two movements to compete so that each would seek to carry out more spectacular operations than the other. An additional reason for the ISI's encouragement of splits is its desire to separate the Afghan and Kashmiri jihads and to distance the Pushtuns from operations in Kashmir.<sup>71</sup>*

### Allies or Interests?

As President George W. Bush forged an antiterror coalition after al Qaeda's 9/11 attacks, the United States relied on Pakistan "as a critical ally in the war against forces it helped foster."<sup>72</sup> General Pervez Musharraf received an ultimatum to help America wage the war on terror against al Qaeda and dismantle the Taliban<sup>73</sup> or become a target.<sup>74</sup> For self-preservation and self-interest,<sup>75</sup> as well as to avoid India allying with the United States against him, Musharraf withdrew Pakistani military advisors from Afghanistan and ordered ISI to cease operations.<sup>76</sup>

With Washington's encouragement, Pakistan went from al Qaeda supporter to war on terror coalition member, consolidating its power against internal terrorist groups and instability from Afghanistan.<sup>77</sup>

ISI became a primary instrument to combat the Taliban and al Qaeda, which it helped create.<sup>78</sup> Washington relied on ISI as its "eyes and ears" in operations to capture bin Laden and dismantle the Taliban. Pakistan provided terrorism intelligence to the United States, but some ISI elements provided incomplete or misleading information.<sup>79</sup> There were allegations that ISI helped bin Laden and Taliban leader Mullah Omar escape capture.<sup>80</sup> Aligning himself with Washington, Musharraf reversed Pakistan's dealings with the Taliban, al Qaeda, and some groups Islamabad sponsored to fight for the Taliban or conduct terrorist acts in Indian-controlled Kashmir.<sup>81</sup>

Pakistan changed course more than any country in the war on terror coalition; ISI shifted from working with extremists to fighting them. While ISI restrained some clients, others labeled Musharraf a traitor and tried to assassinate him. Allying Pakistan with the United States, Musharraf alienated internal factions but ensured Islamabad would not be targeted for previous Taliban support. He fired the ISI chief and replaced him with one who purged pro-Taliban members.<sup>82</sup>

There were collaborative successes. Pakistan captured and gave the United States over 500 al Qaeda and Taliban members, including Abu Zubaydah, Ramzi bin al-Shibh, Khalid

Sheikh Mohammad, and Abu Faraj al-Libbi.<sup>83</sup> Islamabad became the most important ally in the war on terror, critical to anti-Taliban/al Qaeda efforts.

Pakistan suffered over 300 casualties in the war on terror, the highest casualty rate for a U.S. ally. In addition:

*intelligence provided by Pakistan has led to successes against terrorism around the world . . . all of the top al-Qaida leaders captured to date have been apprehended in Pakistan with the government's help, while Pakistan itself has arrested more than seven hundred terror suspects. The country has also banned or placed on watch lists a large number of sectarian and militant organizations and has enacted numerous antiterrorism laws, freezing thirty-two bank accounts suspected of belonging to terrorist organizations.<sup>84</sup>*

States, and ISI is an integral part of Pakistan's antiterror strategy, yet ISI's relationships with the Taliban and certain Kashmiri groups (some on the U.S. State Department's terrorist organizations list) may work at cross-purposes.

Musharraf wanted to ally with Washington yet continue Islamabad's nuclear program and Kashmiri militant support. This came to the fore on October 1, 2001, when militants attacked the Kashmiri legislature in Srinagar, killing 38. ISI-sponsored Jaish-e-Muhammad claimed responsibility. The next day, JEM leader Masood Azhar, pressured by ISI, denied his organization's culpability.<sup>85</sup>

On December 13, 2001, ISI-sponsored Lashkar-e-Taiba militants attacked India's parliament in New Delhi. When India went to a war footing, Musharraf ordered the arrest of 50 LET members and banned certain militant groups, declaring he would not allow terror-



**Pakistani tribal militia meet in South Waziristan area to search for al Qaeda supporters believed to be hiding near Afghan border**

*Pakistan changed course more than any country in the war on terror coalition; ISI shifted from working with extremists to fighting them*

### ISI: On Which Side?

General Musharraf's position is precarious; his personal security and coup attempt possibilities make the country and region unstable. Pakistan is a key partner to the United

ism, even for Kashmir. Pakistani authorities arrested several hundred militants, including LET and JEM members, but soon released them. Stephen Cohen observed that bans "had no impact on either the membership or the leadership of these groups, nor have they stopped the Pakistani government from using them for their own purposes."<sup>86</sup>

Extremist infiltration of Pakistan's government came to light after the murder of investigative journalist Daniel Pearl in 2002. Pearl was examining ISI links to terrorist groups. After one of his assassins surrendered

to his ISI “handler,” authorities waited a week before notifying the United States, highlighting ISI support for regional and Kashmiri militant groups. The incident called attention to the possible involvement of ISI, or its client JEM, in Pearl’s abduction and murder, raising questions of Musharraf’s control over ISI.

In 2003, probable rogue ISI elements reportedly helped Taliban infiltrators reenter Afghanistan from Pakistan. U.S. complaints led to arrests of Pakistani army officers tied to al Qaeda.<sup>87</sup> This underscored al Qaeda reliance on a sanctuary. Northwestern Pakistan may have served as a haven for al Qaeda and the Taliban to wage guerrilla and terrorist operations in Afghanistan. Under pressure from Washington to stop militant penetrations into Kashmir from Pakistan, Musharraf instead temporarily lowered the militants’ profile but did not terminate the militant-ISI relationship or suppress their activities.

The war on terror replaced Cold War containment as Washington’s policy and strategy focus. Does Washington need Islamabad or vice versa? Is it possible to carry out effective, combined U.S.-Pakistani counterterrorism operations yet encourage structural reforms within Pakistan’s security organs with any hope of success? While the easy answer is to continue the war on terror and maintain the status quo, ignoring Pakistan’s structural deficiencies, this path of least resistance has potentially deadly ramifications.

Since Pakistan has terrorism, nuclear weapons, religious extremism, economic instability, and political volatility, easy answers provide little guidance in a dangerous, fluid environment. If, due to ISI sins of omission or commission, terrorists acquire Pakistani nuclear weapons and there is a nuclear incident or nuclear war, the consequences will be unthinkable.

With no easy answers or guarantees, Washington must attempt the role of honest broker—promoting measures other than war to achieve its global aims, trying to help Pakistan peacefully achieve its regional goals, and promoting regional stability. This will be difficult since Islamabad will continue to pursue regional aims regarding India, Kashmir, and its nuclear program—and Washington needs Pakistan’s assistance in the war on terror.

Nonetheless, the United States needs to offer economic and diplomatic incentives to convince Pakistan to cease support for militant Islamists. Military aid should be taken off the

table, as it will only find its way into the hands of the militants. By promoting social and educational reforms within Pakistan, Washington can help steer Islamabad toward a reformist path to join the community of nations as a respectable member. As the nonmilitary instruments of statecraft have many potent combinations that can be attempted, even though the efforts may ultimately be unsuccessful, the United States must try and try again. **JFQ**

## NOTES

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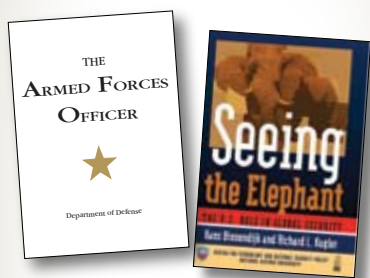
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# Major Joint/Combined Operations

By MILAN N. VEGO

*It takes all our services together  
plus the industrial efforts of our  
Nation to win any major war.*

—General Omar N. Bradley

Dr. Milan N. Vego is Professor of Operations in the Joint Military Operations Department at the Naval War College.

In Western militaries, there is a general lack of a commonly agreed definition and a theory of operations aimed at accomplishing an objective. The U.S.

Army solution in the early 1980s was to adopt the term *major operation* and thereby distinguish between operations in general and those planned and conducted in accordance with the tenets of operational art. Currently, the Army and the main joint doctrinal documents describe a major operation as a “series of tactical actions (battles, engagements, strikes) conducted by various combat forces of a single or several services, coordinated in time and place to accomplish an operational and sometimes strategic objective in an operational area. These actions are conducted simultaneously or sequentially in accordance with a common plan and are controlled by a single commander.”<sup>1</sup> In contrast, other Services of the Armed Forces do not recognize a

major operation as a method of their combat force employment. The Air Force, for its part, invariably (and incorrectly) is focused on planning what it calls “air campaigns.”

In generic terms, a major operation can be described as consisting of a series of related major and minor tactical actions by two or more combat arms of one or more Services concurrently and/or sequentially in terms of time and place and aimed at accomplishing an operational and sometimes limited strategic objective. Major operations are normally an integral part of a campaign; they are planned and conducted in accordance with a common operational idea and controlled by a single commander. A major operation is not just a mechanical collection of randomly conducted battles, strikes, attacks, and other tactical actions but mutually connected tactical actions conducted over a larger part of the theater over several days.



U.S. Marine Corps (Frank C. Kern)

Marine reinforcements come ashore at Inchon during Korean War

Major operations have certain commonalities regardless of the physical environment in which they are conducted. When part of a land or maritime campaign, a major operation is aimed at accomplishing a single operational objective. Major joint/combined operations are normally meant to achieve the main or principal operational objective in the initial phase of a campaign. In contrast, a major naval or air operation is planned to accomplish a secondary or ancillary operational objective. Normally, a dominant role in a major joint/combined operation will have the Service or functional component assigned to carry out the main operational objective of the operation as a whole.

In some cases, a major operation can accomplish a limited strategic objective. This is usually the case when a strategic objective is predominantly nonmilitary (for example, diplomatic, economic, psychological). Then a major operation is conducted with multi-Service and/or multinational forces. Sometimes in operations short of war, when the predominant aspects of a strategic objective are nonmilitary, a single major joint/combined operation is planned to achieve a limited strategic objective, as was the case in the U.S. invasion of Grenada in 1983 (Operation *Urgent*

*Fury*), Panama in 1989 (Operation *Just Cause*), and the North Atlantic Treaty Organization air offensive against Serbia over Kosovo in 1999 (Operation *Allied Force*).

A campaign in a high-intensity conventional war should be planned, prepared, and executed by an operational commander. Each of the Service or functional component commanders would be entrusted with planning and executing the respective major operations on land, at sea, and in the air. A joint or combined joint task force is the lowest command echelon that can plan, prepare, and conduct major joint/combined operations in regional conflict or a situation short of war. Strong central authority is needed to focus the efforts of all subordinate multi-Service forces. A single commander with sufficient authority and responsibility can greatly reduce Service parochialism. However, overly centralized command and control can inhibit creativity and the initiative of subordinate commanders.<sup>2</sup>

### Background

The beginnings of joint operations go back to the ancient era, when armies were often supported by fleets during their operations on the coast. Naval vessels were also often used for transporting and supply-

ing troops during distant expeditions. For example, in 415 BC, the Athenians intervened in the Sicilian civil war, sending some 27,000 troops transported by 134 ships (including 60 warships) plus some 130 smaller supply vessels. The Sicilian expedition ultimately failed because the Athenians did not capture the city of Syracuse even after a 2-year siege (415–413 BC).<sup>3</sup>

In the Thirty-Year War (1618–1648), Seven-Year War (1756–1763), American Revolution (1775–1783), and French Revolutionary and Napoleonic Wars (1792–1815), a number of operations were conducted by armies and navies. In the Crimean War (1853–1856), Britain and France transported and then sustained a large army in the Crimea. Despite rather high casualties due to poor leadership and underestimation of the Russian defenses, they eventually accomplished their objectives by forcing Russia to sue for peace.<sup>4</sup>

*a campaign in a high-intensity conventional war should be planned, prepared, and executed by an operational commander*

Many joint operations took place during the American Civil War (1861–1865). For example, cooperation between the Union army and navy in the Chesapeake Bay and Virginia was vital to the Union's ultimate success in the war. The Union naval forces covered the army's movement across otherwise-impassable terrain and guarded the vital line of water communications to that army's ultimate source of supplies.<sup>5</sup>

In the Spanish-American War of 1898, the U.S. Army operations would have been impossible without the Navy's support during the transit of troops to their landing area and then their sustainment ashore. For example, about 10,000 U.S. troops were transported from San Francisco and disembarked at Cavite, Manila Bay, in June 1898. The expeditionary force of three divisions with 17,000 men was transported from Tampa, Florida, with naval escort to an area near Santiago, Cuba, in late June. Another 5,000 American troops landed in Puerto Rico in late July.<sup>6</sup>

In the Russo-Japanese War of 1904–1905, both the Japanese and Russians conducted major joint operations. The Japanese First Army landed at Chemulpo, Korea, under strong naval support in mid-February 1904.

USS *Harry S. Truman* in Atlantic Ocean conducting carrier qualifications



U.S. Navy (Jay C. Pugh)

Afterward, it started to advance northward to the Yalu River, to cover operations at the Russian naval base at Port Arthur.<sup>7</sup>

The first modern major joint operations emerged in the last stage of World War I. As many as 8 to 11 field armies, with several thousand guns and mortars, up to 1,000 airplanes, and several hundred tanks, participated in major joint operations conducted along a 250- to 435-mile front and lasting from 8 days to several months.<sup>8</sup> Tanks were used extensively for the first time in the battle of Cambrai in November-December 1917, when the British employed some 200 of them against the German Second Army.<sup>9</sup> The series of large German offensives on the Western Front from March to July and the Allied counteroffensives from August to November 1918 were all conducted with strong support by large numbers of aircraft. For example, in the Allied St. Mihiel offensive (September 12–16), some 600 American, French, Italian, and Portuguese aircraft were employed in support of the ground troops.<sup>10</sup> Infantry and artillery still had the primary role in these operations. Aircraft provided reconnaissance and were extensively used for attacks against enemy troops on the ground. Tanks had inadequate firepower and protection, as well as low speed and poor cross-country mobility; they were mainly used for direct infantry support during penetration of fixed defenses.<sup>11</sup> Cooperation among combat arms was rudimentary and loose. However, there was recognition of the urgent need to resolve the problem of close cooperation among the ground and naval forces, as well as aviation, in the conduct of major land operations; otherwise, success would be unachievable.<sup>12</sup>

During World War II, four types of major operations emerged: ground, naval, air, and joint/combined. More than two-thirds of all operations were conducted on the ground.<sup>13</sup> The reason for the emergence of Service operations was the increase in the capabilities of each Service in accomplishing the operational objective, alone or with support from the others. The main forces in major joint operations were ground forces, while naval forces and air forces were employed in their support.<sup>14</sup> Major land and naval operations were mostly joint or combined. Many amphibious landings, such as the invasion of Sicily in July 1943 (Operation *Husky*) and Normandy in June 1944 (Operation *Neptune*), were conducted with multinational forces.<sup>15</sup>

## Why Joint?

Principal advantages of major joint operations include complementary capabilities, greater flexibility and, hence, a greater number of options in the employment of subordinate forces, and the exploitation of enemy vulnerabilities by employing one's forces asymmetrically. A joint force allows the operational commander to pose multidimensional threats to the enemy. The enemy will also have a much greater problem countering the capabilities of multi-Service rather than single-Service forces. One of the principal advantages in having multi-Service forces is the commander's flexibility in employing these forces asymmetrically (for example, land versus air, or sea versus land). Hence, it is possible to use one's strengths against the enemy's weaknesses more effectively or to prevent the enemy from exploiting one's own weaknesses. The operational commander also has far more freedom of action in employing multi-Service forces than in using the forces of a single Service.

A symmetric employment of forces often requires substantial numerical superiority and/or much more advanced weapons to achieve success and minimize friendly losses or casualties. In contrast, the employment of dissimilar forces can be extremely lethal, especially if the forces attacked are not ready to defend themselves against the threat. Joint forces provide a wider range of operational and tactical options, which pose multiple, complex problems for an enemy.<sup>16</sup> Multiple Service capabilities allow an innovative operational commander to combine capabilities, tactics, techniques, and procedures in asymmetrical as well as symmetrical ways, synchronized to produce a cumulative effect greater than the sum of its parts.<sup>17</sup>

Among the disadvantages of joint forces are differences in ways of warfare, decision-making and planning processes, and doctrine, as well as parochialism and a lack of interoperability and agreed operational terms. Another major difficulty is usually the lack of common logistical support and sustainment. The planning, preparation, and execution of joint operations are more complex than for predominantly single-Service operations because of the need to sequence and synchronize the movements and actions of disparate force elements. Sound command and control can be especially challenging.

The operational commander must have full knowledge and understanding of the

capabilities of subordinate forces. He must orchestrate quick, decisive actions and have the ability to coordinate force capabilities to achieve desired results.<sup>18</sup> At the same time, the need for close cooperation among Services should not lead to the elimination of cultural differences. The need for conformity should not be imposed at the expense of uniqueness; otherwise, one's military will become inflexible, uncreative, and, most importantly, predictable. Service cultures should not be suppressed or eliminated but preserved and exploited.<sup>19</sup>

Major operations with multinational forces are inherently more difficult to organize and execute than those with national forces. Moreover, operations with nontraditional allies can greatly increase risk. Coalition partners often have contrary views about the value of human life. Hence, treatment of prisoners of war and attitudes toward avoidance of collateral damage might differ. However, these

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*the need for close cooperation among Services should not lead to the elimination of cultural differences*

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disadvantages are often compensated by substantial nonmilitary advantages. Among other things, the participation of services of other nations considerably enhances the political, diplomatic, psychological, and informational status of both stronger and weaker partners. By including the forces of other nations in a campaign or major operation, the stronger partner gets access to bases, installations, and host-nation support. Perhaps the greatest benefit of major combined operations for the stronger coalition partner is that other participants enhance the legitimacy of using military forces in world opinion.

## Characteristics

One of the principal features of all major operations is the decisiveness of one's actions in the course of accomplishing the ultimate objective. The aim is to seize and retain the initiative and thereby ensure freedom of action for one's forces. A major operation is usually characterized by high intensity of actions; skillful maneuver of forces; flexible command and control; extensive use of cover, concealment, and deception; and all-encompassing combat support. The aim is invariably to defeat the enemy quickly and with the smallest losses of forces and materiel.

The decisionmaking process for a major operation is based on the commander's estimate of a situation of much larger scope. In contrast to the planning of a tactical action, major operations are planned using a so-called regressive (or backward) planning process in which the ultimate objective is determined first and is followed by the determination of several intermediate, usually major tactical, objectives. These objectives are then accomplished sequentially or simultaneously.

A major operation is conducted in a much larger area of the theater than a tactical action. The size of the area depends on the force strength of each side; the size, shape, and characteristics of the physical environment; the prevailing weather/climate; and demographic, urban, ethnic, and other features. Normally, combat actions in a major operation are conducted in a given area of operations. However, the deployment of forces can encompass a large part of a theater of operations.

In contrast to a tactical action, the duration of an operation is measured in weeks or even months. The operation starts with the beginning of a deployment and ends after the assigned (or in some cases strategic) objective is accomplished—or if that objective is not accomplished. The duration of a major operation depends primarily on the degree of the correlation of force on both sides, amount of enemy resistance, and characteristics of the factor of space.

A major operation encompasses three parts, arbitrarily called the *precombat*, *combat*, and *postcombat* phases. In the case of a major joint/combined operation aimed at accomplishing a limited strategic objective, the postcombat phase is identical to the posthostilities phase. Normally, a major operation is an integral part of a campaign; hence, its main phases fall within the framework of a respective campaign. The precombat phase consists of predeployment and deployment phases. In a major operation, forces conduct operational and, rarely, strategic deployment. Deployment is normally conducted from home or forward bases to the area of physical concentration or for generating mass effect. A combat phase, especially in the case of a major land operation, may consist of two or more phases. The time between consecutive phases (or operational pauses) varies.

A major operation comprises a series of related major and minor tactical actions that collectively lead to the accomplishment of the

assigned operational objective. Major tactical objectives are accomplished by conducting battles, engagements, raids, strikes, and attacks. Minor tactical objectives are attained through such devices as ambushes, patrols, surveillance, and reconnaissance.

Each type of major operation attempts to accomplish an operational objective with forces that function in very different physical environments. It is difficult, therefore, to generalize how each major operation would unfold and what its elements would be. However, regardless of type and purpose, a major operation can comprise the following: the initial position (central or exterior) and corresponding lines of operations (interior or exterior); base of operations; concentration/counterconcentration; the ultimate and intermediate objectives and corresponding centers of gravity; maneuver and fires; sectors of main effort (thrust) and sectors of secondary efforts (thrusts); main forces and supporting forces; points of main attack (or defense); point of culmination; deception; redeployment or return to a home base; and reconstitution (see figure 1).

After the ultimate objective of a major operation is accomplished, operational success is consolidated through energetic pursuit aimed at destroying or at least neutralizing the remaining enemy forces. Redeployment is conducted during the postcombat phase. Then forces can be redeployed to another area in either the same or an adjacent theater of operations or directed to return to their home base. In the postcombat phase, there might be a need to reconstitute one's forces if they have been heavily attrited. This is not often the case

with air or naval forces. Yet reconstitution might be necessary if losses in ships, aircraft, and personnel are so high that units or elements are not capable of conducting their combat missions.

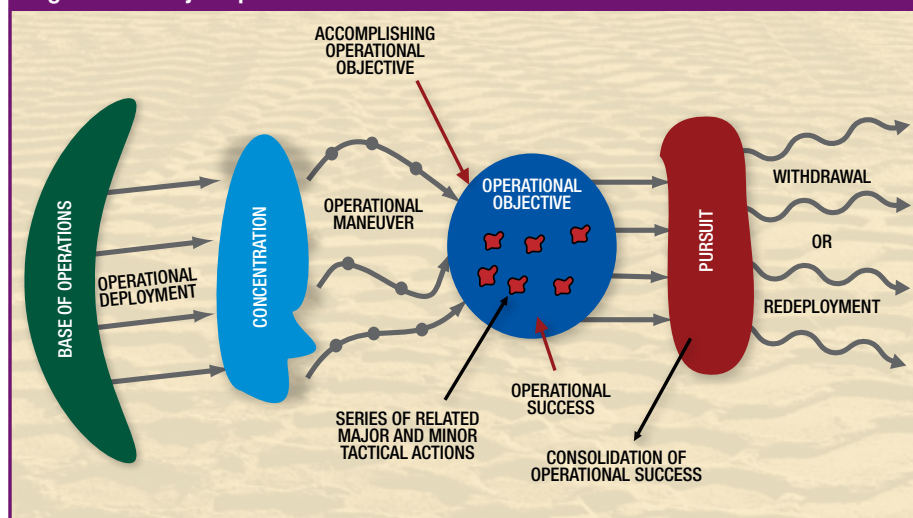
### Forms of Cooperation

In generic terms, major joint operations can be planned and carried out among ground forces and the air force and navy, respectively; the air force and ground forces; the navy and ground forces; and joint operations in which all services participate. Also, in some cases, ground forces can directly or indirectly support either the air force or the navy in the accomplishment of their missions.

*Air Force Support of Ground Forces.* In the modern era, there have been few major land operations conducted without some participation of friendly aircraft. Air force can be employed for a variety of missions in support of friendly ground forces in both offense and defense. Among other things, air attacks can compel the enemy to stop his advance and revert to the defensive. They can compel the enemy to channel his advancing forces into areas where they can be more easily contained or destroyed. Air force can cause extensive delays in the planned movements of opposing troops on the battlefield. When ground forces are on the defensive, the air force can, by attacking the enemy forces, buy time to bring in fresh troops, reinforce positions, or launch spoiling attacks. Strikes from the air can greatly complicate withdrawal or retreat.

Obtaining air superiority or supremacy can often be more successful if air forces synchronize operations with ground forces. The quick advances of friendly troops on the

**Figure 1. A Major Operation and Its Elements**



ground can greatly facilitate the air force's task of obtaining and maintaining local air superiority by seizing control of enemy territory, with its ground-based air defenses, air bases, and associated airspace facilities/installations. Likewise, by stubbornly defending the country's territory or important positions, friendly ground forces can contribute to the ultimate success of the air forces by protecting the friendly air forces' ground installations.

Traditionally, air force missions in support of the ground forces have consisted of offensive air support, armed reconnaissance, and tactical air reconnaissance. Offensive air support, in turn, has consisted of air interdiction and close air support.<sup>20</sup>

Air interdiction is aimed at destroying, disrupting, neutralizing, and delaying enemy land forces and their supporting elements before they reach the battlefield (see figure 2). It can limit their combat potential and control the timing of that eventual engagement, selecting the opportunity most advantageous to friendly forces.<sup>21</sup> Air interdiction is considered the best means of exploiting airpower reach against enemy land forces.<sup>22</sup>

Normally, air interdiction is conducted beyond the boundaries of a joint area of operations (or *corps deep area* in U.S. Army terms). Hence, it does not require detailed integration with the fire and movement of friendly land forces. The depth at which interdiction is conducted determines the freedom of action available to the attacking force. Increasing the depth reduces the danger of fratricide for

friendly air and ground forces, lessens the coordination required between components, and allows increasingly flexible operations.<sup>23</sup>

Air interdiction is often confused with operational fires. Although related, they are not identical in purpose, spatial extent, or command and control processes. Among other things, the main purpose of operational fires is to facilitate the employment of all service or functional component forces taking part in a campaign or major joint/combined operation. Hence, operational fires can encompass a large part of a given theater of operations. In

*air interdiction can deny sanctuary to ground forces while diverting resources and offensive potential to defensive purposes*

contrast, air interdiction is primarily aimed at supporting actions of friendly ground forces and is conducted in the operational depth of enemy ground defenses. Operational fires are normally conducted some time prior to the start of a campaign or major joint/combined operation, while air interdiction is carried out largely in the course of a major land operation.

Air interdiction can create opportunities for friendly ground commanders to exploit airpower's ability to concentrate firepower quickly at any point throughout the theater. For instance, air interdiction can deny sanctuary to ground forces while diverting resources and offensive potential to defensive purposes.

The enemy might be forced to strengthen his anti-air defenses in certain areas that he did not originally envisage. Alternatively, it can force him to extend air defenses over a greater depth than intended. This, in turn, would require him to commit more air forces for predominantly defensive, not offensive, tasks. Alternatively, the enemy might be compelled to disperse air defenses because of the need to protect a large part of his forces from the attacks by one's air force.<sup>24</sup>

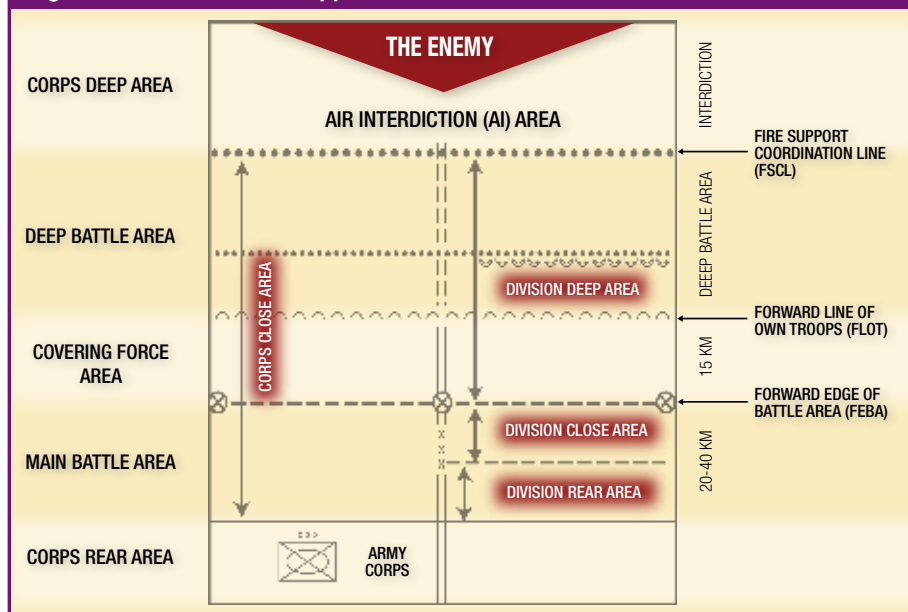
One of the chief prerequisites for the success of air interdiction is to possess a sufficient degree of control of the air; otherwise, it would be difficult if not impossible for friendly aircraft to carry out air interdiction tasks. Success in air interdiction is highly dependent on having accurate and relevant intelligence on enemy dispositions; lacking that, it is hard to select viable interdiction targets. Other prerequisites include sustained and concentrated pressure and appropriate ammunition. However, perhaps the most critical element for success is synchronization of air interdiction with ground maneuver of friendly forces.

Air interdiction is generally more effective against a highly mechanized modern military than against a less sophisticated force. It is not likely to be effective against an enemy with a simple force structure and minimal logistic requirements. When conducted against enemy forces and logistics without regard to the operational situation, air interdiction might be largely ineffective.<sup>25</sup> Therefore, air interdiction must be tailored. This means, for example, that the same procedures cannot be used against a highly sophisticated enemy force and a less capable and more primitive enemy, as is often the case with a counterinsurgency.

Airpower is rarely successful unless combined with ground maneuver. The mobility and firepower of land and air forces are mutually supporting and interchangeable. Ground maneuver and air interdiction should be synchronized so each reinforces the other.<sup>26</sup> In general, air force actions to delay or stop the movement of enemy ground forces allow friendly ground forces to obtain a positional advantage. Air interdiction of supply lines limits offensive and defensive capability in case the enemy forces are in contact with friendly ground forces. In addition, maneuver of friendly forces impels the enemy to conduct counter-maneuver and thereby exposes him to air attacks.<sup>27</sup>

In the initial phase of the Normandy landing, for instance, the Allies prepared an air

Figure 2. Air Missions in Support of Ground Forces



interdiction plan to destroy critical junctures on the main roads and railroads leading to the beaches.<sup>28</sup> The main prerequisite for success was synchronization of air interdiction and maneuver of Allied ground forces. The plan for air interdiction in support of the breakout from Normandy (Operation *Cobra*), developed in July 1944, required the Ninth Bomber Command to interdict reinforcement routes to the German Seventh Army. The Ninth Air Force's planners selected 16 bridges along the Sienne and Vire Rivers where the German columns had to cross. The planners wanted to preserve critical bridges that friendly forces would use during the exploitation phase of the operation. Throughout July, the Ninth Bomber Command's light and medium bombers destroyed these bridges to isolate the battlefield.<sup>29</sup> To assist in the breakout, British General Bernard Montgomery launched Operation *Goodwood* (July 18–20, 1944). Its main purposes were to secure the port of Caen, deceive the Germans as to the location of the Allied main attack, and pin down the enemy forces at the eastern part of the lodgment. This, in turn, would enhance the chances for success for Operation *Cobra*.<sup>30</sup> After 3 days of heavy fighting, the British operation worked as a diversion but failed to effect the breakout.<sup>31</sup> Also, the massive Allied bombing of German positions on July 25 was less successful than expected and resulted in some 110 friendly fatalities.<sup>32</sup>

In contrast to the Normandy invasion, the Allies paid little attention to the need to synchronize the employment of their airpower and forces on the ground on the Italian front in early 1944. They planned to break the stalemate along the Gustav Line by mounting an amphibious landing behind the German front at Anzio (Operation *Shingle*) in January 1944. This landing would be supported by the operational fires that included air attacks aimed at interdicting the flow of supplies to the German forces deployed on the Italian front. The main targets of the Allied attacks would be the enemy's rail and road network. As provided by the plan, the Mediterranean Allied Air Force attacked German communications in January and February 1944 during the landing at Anzio and subsequent battle ashore. Afterward, the Mediterranean Allied Air Force conducted a saturation bombing of the Monte Cassino monastery against the advice of the respective air commanders. Not surprisingly, all these efforts in the air and ground assault failed because none were synchronized. This set the stage for Operation *Strangle I* (March

15–May 11, 1944).<sup>33</sup> Allied airpower cut every railroad in at least two places, causing a massive reduction in German supplies. However, that interdiction ultimately failed because it was not synchronized with ground maneuver. Among other things, the Germans were not forced to consume large quantities of supplies for their frontline troops. Under the cover of night, they managed to transport sufficient goods to their troops by truck. Neither did the Allied bombing force the Germans to abandon their defensive positions.

In their attack on Hezbollah in Lebanon in July 2006, the Israelis failed to synchronize the use of their massive air attacks with forces on the ground. The Israeli Air Force conducted nearly 2 weeks of air strikes without a clear ground component, during which it conspicuously failed to stop Hezbollah's rocket attacks

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*close air support can have an operational effect if it decides the outcome of a major ground operation*

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against the northern part of Israel. It also signally hit Lebanese civilian targets and caused extensive civilian damage, serious collateral damage, and massive Lebanese evacuations. Yet despite all these efforts, airpower was unable to prevent Hezbollah from firing some 4,000 rockets against targets in northern Israel.<sup>34</sup>

*Close air support* is one of the oldest and most important missions of the air force in support of friendly ground troops. Its effect

on the enemy is more direct but smaller in scale than air interdiction. In general, close air support missions are conducted against less vulnerable enemy forces in contact, which are deployed in a battle formation and better prepared to defend themselves.<sup>35</sup> In generic terms, close air support is one of several forms of tactical fires. It can also have an operational effect if it decides the outcome of a major ground operation.

On the eve of World War II, the air forces of Britain, the United States, and Germany considered close air support a secondary mission. Yet the German Luftwaffe was the most successful in providing support to army troops in the initial phase of the war.<sup>36</sup> The first real test of the German close air support doctrine occurred during the invasion of Poland in September 1939. Despite great successes in the campaign, cooperation between the German army and Luftwaffe was beset with problems. Among other things, air and ground units did not use the same frequencies in communicating. Several hours often passed between army requests for support and the actual attack. The liaison problem between air and land commanders generated confusion about the location of friendly forces. The Luftwaffe's aircraft routinely bombed friendly troops. Air support was most effective when applied to fixed fortifications and encampments and in attacks against enemy rear areas.<sup>37</sup> Yet the Luftwaffe's overall support in the Polish campaign was spectacularly successful despite these problems.<sup>38</sup> Based on lessons learned from that campaign, the Germans

2<sup>nd</sup> Marine Division Combat Camera (David Castillo)



Marine snipers take observation position in Fallujah, Operation Iraqi Freedom

▲ Download as computer wallpaper at [ndupress.ndu.edu](http://ndupress.ndu.edu)

created a new air corps (Fliegerkorps VIII) specializing in providing close air support for the pending spring campaign in the west.<sup>39</sup>

Another test of the Luftwaffe's close air support doctrine came during the campaign in the west from May to June 1940. The Luftwaffe used combat air patrols to protect Panzer and mechanized forces as they advanced through the Ardennes. Allied reconnaissance aircraft were shot down by German fighters and ground anti-aircraft fires.<sup>40</sup> The Luftwaffe played a crucial role during the Meuse River crossing by General Heinz Guderian's XIX Panzer Corps on May 13. His forces were supported by the II and VII Air Corps, whose heavy bombers and dive-bombers continuously attacked French defensive positions around Sedan. Guderian's anti-aircraft weaponry and Panzers engaged French fortifications across the river with devastating direct cannon and automatic weapons fire. The French defenses crumbled due to the howling Ju-87 dive-bombers' impact on morale, which turned out to be greater than the physical effect.<sup>41</sup> However, the Luftwaffe's close air support was more effective against Allied fixed positions such as those at Sedan than in aid of fast-advancing Panzer and mechanized forces. There were instances of confusion concerning the location of friendly and enemy forces and occasional friendly bombing.<sup>42</sup>

The main differences between air interdiction and close air support are objectives and different factors of space, time, force, and command and control. Air interdiction requires more extensive capabilities in attack-

ing aircraft than does close air support. The distances from the friendly bases to the target area are usually much longer. The time spent within range of hostile defenses is also greater. Anti-aircraft defenses are likely to be more integrated than those in the battle area. The enemy early warning time will be longer. There is also less likelihood of the attacking aircraft being given last-minute target acquisition or identification assistance from the ground. The deeper the penetration is, the more scope there will be for defensive countermeasures.<sup>43</sup>

Air forces play a critical role in airborne operations by securing control of the air and then transporting airborne troops to the objective area, providing escort during transit, and furnishing close air support once the troops have landed. The main purpose of an airborne assault can be to seize some important physical objective in the operational depth of the enemy's defenses and hold it until reinforced or relieved by other forces. Air forces can be used for isolating a specific area vital to the enemy, disrupting enemy movements, or capturing personnel. Airborne raids are usually of short duration.<sup>44</sup>

*Navy Support of Ground Forces.* Navies can carry out a large number of diverse operational tasks in support of armies. These tasks range from air interdiction and close air support to amphibious landings on the opposed shore and direct or indirect support of friendly ground forces operating in coastal areas. A major amphibious landing on the opposed shore can be planned to seize an area giving access to the operational objective inland, speed the advance of friendly troops

along the coast, eliminate or take control of a large naval base or port or prevent the enemy from capturing such a facility, cut off an army's avenue of escape, or prevent evacuation across the sea. Naval forces play the principal role in providing transport for troops and protecting them directly and indirectly during the transit phase of the landing and in the struggle to obtain the initial lodgment ashore.

In the Korean War (1950–1953), the influence of sea power, and its amphibious element in particular, was most clearly demonstrated when the entire military situation was transformed and the hitherto-triumphant North Korean army found itself encircled as a result of a brilliantly planned and executed amphibious landing at Inchon (Operation *Chromite*). After capturing offshore islands on September 15, 1950, about 70,000 troops embarked on 170 transports and landing ships, went ashore at Inchon, and struck inland, cutting off the road running south from Seoul along which most enemy supplies were transported. At the same time, the only other supply route down the east coast was interdicted by United Nations (UN) naval forces. Seoul was recaptured 2 weeks later. By September 16, the UN forces within the Pusan perimeter had launched a fierce counteroffensive and advanced quickly northward. Some 10 days later, they joined hands with those landed at Inchon.<sup>45</sup> By the end of September, the shattered North Korean army was in full retreat. Entire divisions had disintegrated. Lines of supply had been cut off. Many enemy troops were trapped in the southern part of



U.S. Navy (Peter D. Sundberg)

Marines approach Saint Georges, Grenada, Operation *Urgent Fury*

*in the Korean War, the influence of sea power was demonstrated when the North Korean army found itself encircled as a result of a huge amphibious landing at Inchon*

the peninsula because their escape routes were cut off. The North Koreans had no hope for replenishment or reinforcement because of the UN blockade of the coast.<sup>46</sup>

A credible amphibious capability may also help to tie a sizable enemy force to the defense of a large stretch of its own mainland coast or offshore islands and thereby enhance the chances of ground forces in the sector of main effort. The value of possessing a credible amphibious threat was shown most recently in the Persian Gulf War of 1991. General

Norman Schwarzkopf employed the 13<sup>th</sup> Marine Expeditionary Unit to deceive the Iraqis and pin down their forces in Kuwait. Reportedly, the Iraqis were forced to deploy at least three infantry divisions to defend the coast from Kuwait City south to the Saudi-Kuwaiti border. U.S. Marines conspicuously prepared for an amphibious landing along the Kuwaiti coast, conducting highly publicized exercises with ominous names such as Imminent Thunder. Meanwhile, the Allies sought to convince Saddam Hussein that a major land assault would be launched against Iraq's most heavily defended areas along the Saudi border.

Naval forces can conduct diverse tasks in support of friendly troops in both offensive and defensive coastal operations. During an *offensive major operation*, naval forces can be employed in blockading the entire or a selected part of the enemy coast or strait/narrows; carrying out attacks on troop concentrations and installations/facilities in the depth of the enemy's defenses; destroying or neutralizing enemy naval forces posing a threat to the advance of friendly troops along the coast; conducting raids; preventing the arrival of enemy reinforcements by sea/land; transporting friendly troops and materiel; seizing the enemy's large naval bases/ports; and providing support to friendly ground forces in crossing straits, bays, and estuaries. The primary focus in the employment of naval forces should be on conducting actions that facilitate the advance of friendly ground troops along the coast.

The main tasks of naval forces in providing support of the army flank in a *defensive major operation* include slowing the enemy advance along the coast or a large lake; taking part in the anti-amphibious defense and the defense of naval bases/ports; conducting commando raids in the enemy's rear; and evacuating friendly troops and civilians. Support of naval forces in defense of naval bases and large ports from the seaside proved invaluable on many occasions in both world wars. A prolonged defense of a major naval base or port can considerably slow an enemy advance along the coast by tying down significant forces. Perhaps more important, any prolonged defense of a major naval base/port would represent a gain of valuable time to stabilize defenses. In some cases, the time can be used for preparing a defense of a more important naval base/port.

A navy's support of army troops on the coast also includes many tasks carried out during a major offensive or defensive operation. The most common operational task of

naval forces is protecting the flank of friendly ground troops. This broad task, in turn, can include a number of tactical tasks, such as providing fire support to the troops ashore (naval gunfire and/or close air support), laying defensive minefields in coastal waters, transporting troops and materiel, helping defend the coast, and conducting commando raids in the enemy's rear.

Fire support from naval guns and coastal gun batteries is used to defend naval bases/ports, support amphibious landings, provide flank support to advancing troops, and secure important sectors of coastline. The high mobility of ships and their strong and accurate firepower play a key role in defending naval bases. Nevertheless, fire against coastal targets is one of the most complicated tasks for shipboard artillery.

Today's longer-range and more lethal weapons allow navies to provide direct fire support against enemy-held coasts and strike operationally important targets in the enemy's interior. For example, during the major combat phase of the campaign in Iraq (Operation *Iraqi Freedom*), U.S. Navy aircraft flew half of

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*sometimes friendly ground troops might be called upon to seize objectives critical to the naval forces' ability to obtain and maintain sea control*

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the 15,000 strike sorties. They also provided extensive close air support to coalition forces on the ground. U.S. surface ships and submarines fired more than 800 Tomahawk cruise missiles against a variety of targets ashore.<sup>47</sup> Naval forces are also capable of striking troop concentrations and logistical infrastructure, providing support in capturing coastal facilities/installations and ports, and preventing besieged troops from being evacuated by sea.

*Ground Force Support of the Navy.* Sometimes friendly ground troops might be called upon to seize objectives on or off the enemy-held coast of little or no significance for the army but critical to the naval forces' ability to obtain and maintain sea control. Also, friendly ground troops should direct their actions against objectives that in the further course of an operation will be used by naval forces and therefore must be seized undamaged and quickly.

Ground forces can be extremely useful in capturing a large part of the mainland coast and/or key offshore islands with their naval/air bases and ports. As friendly troops advance

along the shore, the enemy's naval position is also steadily reduced. General control of an enclosed or semi-enclosed sea (so-called narrow seas) can largely be obtained by seizing the enemy's major naval/air bases. Afterward, enemy naval forces must either surrender or be forced into internment in neutral ports. This can be accomplished even if the advancing army on the coast has little or no support from friendly fleet forces.

One of the main reasons for the generally poor performance of the Soviet naval forces and aviation in the Baltic and the Black Sea in 1941–1945 was the loss of almost all naval bases in the first few weeks of the war. In the Baltic, the Soviets lost all major naval bases and ports except Leningrad-Kronstadt within 3 months after the start of the Nazi invasion in June 1941. Likewise, because of the withdrawal of the Red Army, the Soviet Black Sea Fleet lost all its major bases within 12 months after the beginning of hostilities. In retrospect, if the Germans had focused on seizing the few remaining Soviet naval bases in the eastern Black Sea as part of their summer offensive of 1942, they probably would have forced the Soviet Black Sea Fleet to self-destruct or to be interned in Turkey. However, these ideas were apparently foreign to the German Supreme Command, although the Soviets were well aware of the threat.<sup>48</sup>

*Air Force Support of the Navy.* An air force can make a major contribution to the employment of naval forces across the spectrum of conflict at sea. The long range, high speed, and lethality of modern aircraft allow them to operate over the major part of the ocean. However, their effectiveness decreases as combat actions take place closer to the enemy or friendly shores. Maritime and air operations should normally be planned to exploit the natural synergies between air and naval forces. Aircraft have longer reach and higher speed than surface ships. They can operate autonomously. In contrast, it is rare for surface forces to operate beyond the effective range of land-based or carrier-borne aircraft. Land-based aircraft generally have a long range and can carry a large payload of weapons. They can also generate a larger number of sorties within a given timeframe than carrier-based aircraft. They have great flexibility in carrying out strikes and other offensive missions against warships and merchant ships when operating along short and interior lines. An exterior position with

numerous air bases allows the attacker to shift sectors of main effort at short notice.

Land-based aircraft can often have an important, if not the key, role in securing and maintaining command of a narrow sea. Because of the growing range, endurance, and speeds of modern aircraft, ever-larger sea and ocean regions have become areas of combined employment of naval forces and land-based aircraft. Today, no part of any narrow sea is free from observation and attack from the air. The struggle for air superiority in narrow seas cannot be separated from the contest in the airspace over the adjacent coastal areas.

Because of the short distances, the effectiveness of airstrikes against enemy ships and targets on the coast is considerably higher in a narrow sea than on the open ocean. Land-based aircraft can fly more sorties within a given timeframe. In a sea with many offshore islands, land-based aircraft can strike from bases flanking the transit routes of enemy ships. Aircraft can be quickly redeployed from one airfield to another or one part of the sea to another.

The destructive power of air forces against warships is well known. In World War II, more warships were sunk by air attack than by any other cause. The effectiveness of land-based aircraft in attacking surface ships at sea, especially in narrow seas, was demonstrated for the first time in European waters in World War II. Yet initially, due to the lack of adequate preparation and training of aircrews, attacking warships at sea did not lead to significant results. For example, during the German invasion of Norway from April to June 1940 (*Weseruebung Nord*), the Luftwaffe moved a large force of heavy and dive-bombers to southern and central Norway. The Germans sank only one British destroyer in early April. British naval ships were repeatedly attacked until the final evacuation in May. The Royal Navy failed in its effort to deny the use of the sea to the Germans in the first 5 days of the campaign.<sup>49</sup> Inability to control coastal waters off Norway because of the weight of the Luftwaffe attacks made Allied ship operations extremely hazardous and difficult unless protection was provided by the Allied fighters based ashore.<sup>50</sup>

The effectiveness of the Luftwaffe's capabilities in attacking naval ships at sea was in full display during the final phase of the struggle for the island of Crete in late May 1941. The British navy was extensively employed in embarking and then transporting Allied troops from Crete to Alexandria, Egypt.

During this evacuation, the Allied ships were subjected to massive attacks from the VIII Air Corps. One effect of these attacks was that the Allies were forced to abandon efforts to evacuate troops from Crete's northern coast.<sup>51</sup> Admiral Andrew Cunningham informed the Admiralty in London that the scale of the enemy air attacks prevented his ships from operating during the daylight hours in the Aegean or off coasts of Crete. Hence, the navy could no longer guarantee it could prevent seaborne landings without incurring losses that might lead to sacrificing the command of the eastern Mediterranean.<sup>52</sup> He pointed out that he lost two cruisers and four destroyers in 3 days, while one battleship, two more cruisers, and four destroyers were severely damaged.<sup>53</sup> The Luftwaffe bombers and dive-bombers sunk three cruisers, six destroyers, five missile torpedo boats, and several smaller ships.<sup>54</sup> In addition, some 32 Allied transports, supply ships, and fleet auxiliaries with about 128,500 tons were sunk and had to be abandoned. Twelve ships with 94,500 tons were lost at sea.<sup>55</sup> In addition, two battleships, one aircraft

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*the employment of combat forces of three Services allows the operational commander to change the intensity of actions in space and time*

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carrier, six cruisers, and seven destroyers were damaged.

Airstrikes against naval bases in a narrow sea can be far more effective than those mounted from the open ocean because of the shorter distances and the larger number of land-based aircraft that can be used. They can be conducted at high intensity and repeated at short intervals. In some instances, not only fixed-wing aircraft but also missile-armed helicopters can be effectively employed. Attacks on enemy naval bases have also been carried out in many regional conflicts since 1945. For example, between January 25 and 28, 1991, U.S. and coalition aircraft attacked Iraqi ships based in Umm Qasr, the Bubiyan Channel, and the port of Kuwait. One Iraqi minelayer, two patrol craft, and one transport were sunk in these attacks.<sup>56</sup> On February 4, coalition aircraft attacked the Iraqi naval base at Al Kalia and disabled two missile craft. Helicopters from a U.S. frigate engaged four Iraqi patrol craft off Maradin Island; one was sunk and another damaged. With this action, the Iraqi navy's

threat to the U.S. and coalition navies operating in the northern Gulf practically ended.<sup>57</sup>

*Army–Air Force–Navy.* In the modern era, many land campaigns have involved all three Services of the Armed Forces. The operational commander then can pose the threat to the enemy in all three dimensions. He has the greatest flexibility in terms of shifting the sector of main effort. The employment of combat forces of three Services allows the operational commander to change the intensity of actions in space and time from one to another part of the theater. The operational commander also has the largest number of options available. At the same time, three-Service employment poses far more severe problems for effective command and control, logistical support and sustainment, and interoperability than if forces of two Services are used.

Defense of the coast is the joint responsibility of naval, ground, and air forces. The most important parts of the coast containing beaches suitable for enemy naval landing are prepared for the conduct of beach defense or anti-amphibious defense. The objective is to prevent the debarkation of enemy amphibious forces and dropping airborne troops in the interior of one's coastal area. Naval and air forces have to cooperate closely with friendly ground forces in beach defense. Air forces and naval forces would strike enemy amphibious forces in their assembly area, during their sea transit, and during the landing and battle ashore. Air forces would also provide defense against enemy air attacks to both friendly ground and naval forces. Another important task of air forces would be protection of friendly ships transporting troops and materiel. The main methods of the employment of air forces in anti-amphibious defense are air interdiction, close air support, and air reconnaissance/surveillance of the objective area.

Major joint/combined operations are not only potentially the most decisive of all operations, but also the most complex to plan and execute. Participation of two or more Services greatly enhances the effectiveness of each. In some cases, each Service might be assigned a separate but related operational objective. However, because the outcome of a major joint/combined operation is on land, ground forces would be assigned to accomplish the principal operational objective; naval and/or air forces would be assigned supporting operational objectives. At the same time, ground forces can in some situations provide

significant support to air forces and naval forces in accomplishing respective objectives.

Major joint operations offer advantages but also disadvantages. Perhaps the most important advantage is that the employment of two or more services offers the operational commander a range of capabilities that no single service can provide. The resources of each service are complementary to the others. Properly planned and executed, a major joint operation would pose threats in all three physical mediums. The operational commander also has a much greater range of options than if a single service is employed. Another great advantage of major joint operations is that each service's elements can be employed asymmetrically.

The disadvantages in the employment of forces of two or more services are primarily caused by different ways of warfare, biases against other services, varying doctrine and procedures, and different organization of logistical support and sustainment. These disadvantages grow in the employment of multinational forces. Yet multinational efforts enhance the stronger partner's ability to deploy, employ, and sustain forces in a given theater and greatly increase legitimacy and thereby public support in the execution of a major joint/combined operation. **JFQ**

## NOTES

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<sup>25</sup> Ibid.

<sup>26</sup> Ibid., 9.

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<sup>33</sup> See Daniel P. Leaf, *Unity of Command and Interdiction* (Maxwell Air Force Base, AL: College of Aerospace Doctrine, Research, and Education, Airpower Research Institute, July 1994), 20.

<sup>34</sup> Anthony H. Cordesman, *Preliminary 'Lessons' of the Israeli-Hezbollah War*, 2<sup>d</sup> rev. ed. (Washington, DC: Center for Strategic and International Studies, 2006), 27.

<sup>35</sup> McKaig, 3; U.S. Army Field Manual 100-5, *Operations* (1993), defines *close air support* (CAS) as a mission that supports land operations by attacking hostile targets close to friendly ground forces. CAS can support offensive operations with preplanned and immediate attacks. All such missions require timely intelligence. CAS missions require positive identification of friendly forces and positive control of aircraft.

<sup>36</sup> Richard R. Muller, "Close Air Support: The German, British, and American Experiences, 1918-1941," in *Military Innovation in the Interwar Period*, ed. Williamson Murray and Allan R. Millett (Cambridge: Cambridge University Press, 1998), 180-181.

<sup>37</sup> Ibid., 181; Richard P. Hallion, *Strike from the Sky: The History of Battlefield Air Attack 1911-1945* (Washington, DC: Smithsonian Institution Press, 1989), 131.

<sup>38</sup> Hallion, 132.

<sup>39</sup> James S. Corum, *The Luftwaffe: Creating the Operational Air War, 1918-1940* (Lawrence: University Press of Kansas, 1997), 274.

<sup>40</sup> Hallion, 137.

<sup>41</sup> Ibid., 139; see also Corum, 277.

<sup>42</sup> Hallion, 145.

<sup>43</sup> R.A. Mason, *Airpower: An Overview of Roles* (London: Brassey's, 1987), 66.

<sup>44</sup> Nick McRobb, *Luftlandeoperationen: Moeglichkeiten, Grenzen und Gueltigkeit in Zukunft* (Hamburg: Fuehrungsakademie der Bundeswehr, February 1999), 11.

<sup>45</sup> Donald G.F.W. Macintyre, *Sea Power in the Pacific: A History from the 16<sup>th</sup> Century to the Present Day* (n.c.: A. Barker, 1972), 254.

<sup>46</sup> Malcolm W. Cagle and Frank A. Manson, *The Sea War in Korea* (Annapolis: Naval Institute Press, 2000), 107.

<sup>47</sup> Jason Sherman, "Logistics Success Built on Sealift," *Defense News*, May 12, 2003, 32; "Statement of Admiral Vern Clark, U.S. Navy Chief of Naval Operations before the Senate Appropriations Subcommittee For Defense," April 2, 2003, 2.

<sup>48</sup> Friedrich Ruge, *The Soviets as Naval Opponents 1941-1945* (Annapolis: Naval Institute Press, 1979), 123.

<sup>49</sup> Stephen W. Roskill, *The War at Sea 1939-1945, Vol. 1, The Defensive* (London: Her Majesty's Stationery Office, 1954), 179.

<sup>50</sup> Ibid., 178-179.

<sup>51</sup> Karl Gundelach, *Die deutsche Luftwaffe im Mittelmeer 1940-1945, Vol. 1* (Frankfurt am Main: Peter D. Lang, 1981), 219-220.

<sup>52</sup> Roskill, 443.

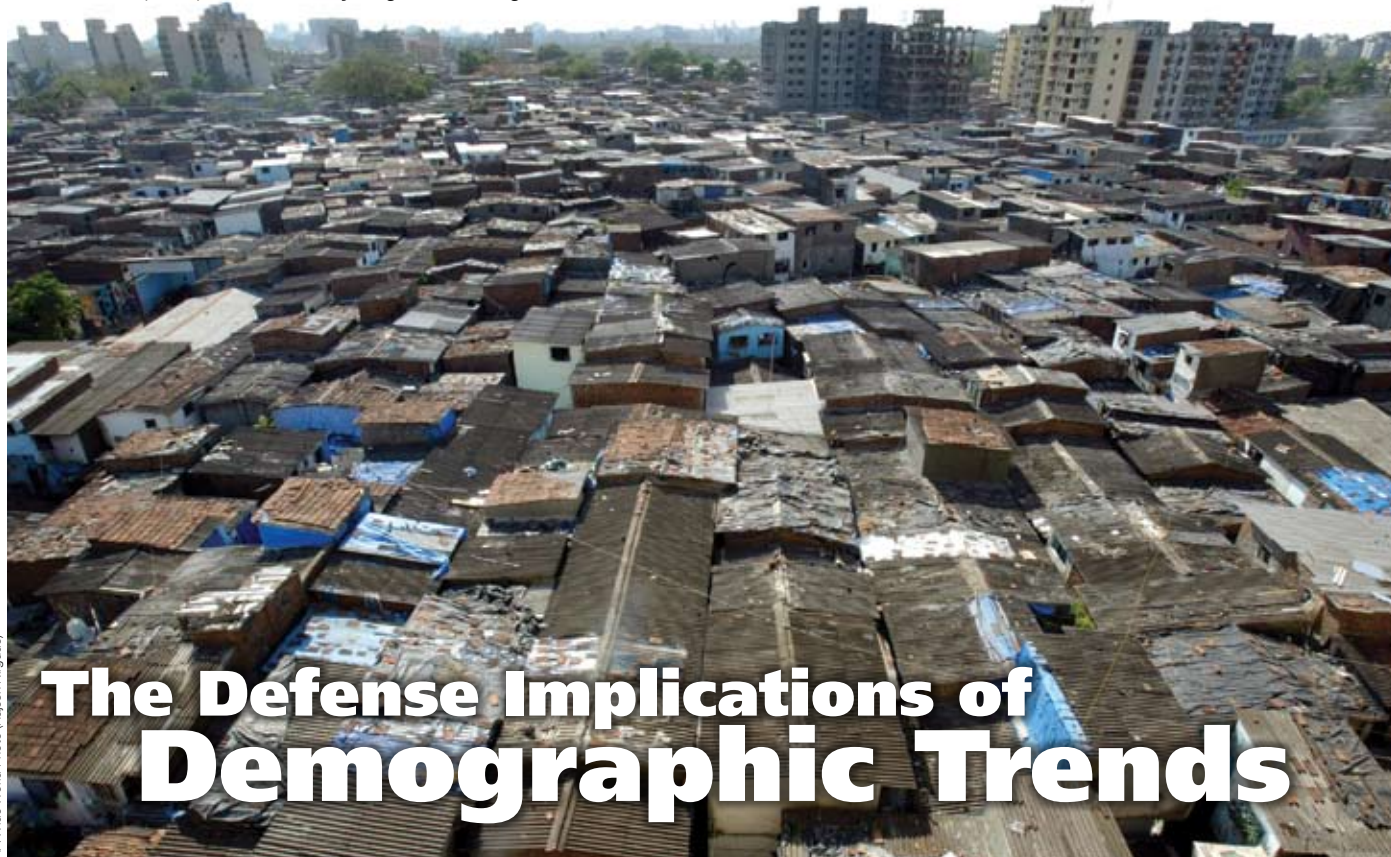
<sup>53</sup> Ibid.

<sup>54</sup> Gundelach, 220.

<sup>55</sup> Ibid., 446.

<sup>56</sup> Hartmut Zehrer, ed., *Der Golfkonflikt: Dokumentation, Analyse und Bewertung aus militaerischer Sicht* (Berlin: Mittler E.S. + Sohn GmbH, 1992), 197.

<sup>57</sup> Ibid., 198.



AP/Wide World Photo (Rajesh Nirgude)

# The Defense Implications of Demographic Trends

By JENNIFER DABBS SCIUBBA

**B**ecause of its perceived association with national power—economic, military, and even ideological—population has weighed heavily on the minds of state leaders throughout history. Romanian dictator Nicolae Ceausescu once declared, “Anyone who avoids having children is a deserter who abandons the laws of national continuity.”<sup>1</sup> Ceausescu felt that his goal—to make Romania a world power—required increased population to meet labor demands and catapult the country to a new status as an economic and military powerhouse.<sup>2</sup> Iranian leader Mahmoud Ahmadinejad and Russian president Vladimir Putin recently echoed Ceausescu’s sentiment.<sup>3</sup> Though Ahmadinejad was not open about his reasons, he likely promoted his pronatalist policy in hopes of increasing national power in a region plagued by demographic tensions (Shiite, Sunni, Persian, Arab, Israeli). Putin, in his May 2006 address to the Russian nation, expressed similar concerns when he said that Russia’s declining population is the number one problem facing the state.<sup>4</sup> Obviously, key states—not only Iran and Russia but also Japan and those in Europe—are concerned with

their demographic futures and the way population trends will affect their global positions. Because population plays such a prominent role in other states’ planning, U.S. policymakers and planners must understand the effects of demographic trends and the way allies and rivals perceive these effects in order to develop coherent and successful strategies.

Developments in three key demographic trends will characterize the next 10 to 20 years—the north-south divide in age structure, international migration, and urbanization. Key questions policymakers should consider in relation to these trends are:

- How might demographic trends influence the security environment?
- What challenges and opportunities for states may arise as these trends unfold?
- What strategies and military capabilities will be necessary to operate in this environment?

By answering these questions, planners can develop more robust strategies for the U.S. Government to plan to minimize risk and maximize opportunities associated with demographic trends. This article examines the defense policy implications of the three key demographic trends and their accompanying challenges to begin to address the above questions.

Demography is a useful lens for understanding national security because population is intimately linked to resources, and resources are related to both capabilities and conflict. Additionally, demographic projections can be more useful for contingency planning than economic or technological projections because there is less uncertainty; we know what population profiles will look like several decades from now. For example, the U.S. Armed Forces have used demographic projections to determine the pool of available recruits over the next several decades. By looking at the number of 5-year-olds today, the military can

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anticipate the number of 20-year-olds 15 years from now. The further the time horizon, the more uncertainty can affect projections. But for contingency planning, which may look 10 to 15 years out, the robustness of demographic projections is reasonable.

### Key Trend 1: North-South Divide

Age structure matures as states go through the demographic transition—the shift from high fertility and high mortality to low fertility and low mortality. One of the major demographic phenomena today is the split between those countries in the global north that have gone through this transition and whose populations are now growing older (and possibly smaller) and those in the global south that continue to have young and booming populations. The latter category is mainly composed of states from less developed regions,<sup>5</sup> which will account for 99 percent of the expected increase of 3 billion people in the world population through 2050. For instance, 42 percent of Iraq's population was under age 15 in 2006, and because the total fertility rate is still high—at almost 5 children per woman—the population will stay very youthful in coming decades. Japan's age structure, on the other hand, is skewed toward the other end of the spectrum, with 20 percent of its population over age 65, and only 14 percent under age 15.<sup>6</sup>

If current trends continue from 2000 to 2100, the split will deepen; Europe's share of the world population will be halved, from 12 to 6 percent, while Africa's will almost double, from 13 to 25 percent.<sup>7</sup> Each pattern—boom and bust—brings a host of political, economic, and social implications, some positive and some negative. On the diplomatic level, this sharp divide has the potential to shift the way states perceive national security and international relations—that is, how states see themselves vis-à-vis potential enemies and allies. In turn, it affects how enemies and allies see other states as well. As important as trends themselves are, often more important is the perception that a population trend is occurring. An additional issue to keep in mind about demographic trends is that despite the weight of numbers, population alone is not enough to drive change. Policy decisions and the political leadership who manage populations are equally important and should be included in assessments of these trends.

*Aging Allies.* Due to decades of low fertility, the populations of Europe and Japan have been aging and are projected to continue this

trend indefinitely. Europe's old age dependency ratio—the percentage of the population aged 65 and over as a percentage of the working population ages 15 to 64—will rise from 37 percent to 48 percent by 2025.<sup>8</sup> This increase means that there will be far fewer workers supporting the growing ranks of the elderly. Policies that limit future public benefits to the elderly are unlikely to be popular given the

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tenor of the current political debate in Europe, so the projected payout of these pension and healthcare benefits as a percentage of gross domestic product is likely to rise, potentially at the expense of defense spending. Because of population aging, the European Commission expects public spending on pensions, health care, and long-term care to increase by about 4 percent between 2004 and 2050 for the members of the European Union (EU) known as the EU15.<sup>9</sup> If Europe and Japan fail to develop policies that account for their changing demographics, the resulting economic crunch could limit their ability to be geopolitical leaders and support key U.S. goals and operations, such as the war on terror. In particular, European priorities could shift to “security” over “defense” spending, meaning that Europe may concentrate more on internal stability than on promoting stability outside of the continent. European defense spending is already

low relative to the United States, yet European policy may increasingly constrict the conditions under which military force is deemed legitimate. The secondary effects of demographic change may even reduce participation in humanitarian expeditions, which Europeans have typically favored.

Another potential effect of European demographic trends is that security priorities may shift from preparing for conventional contingencies to protecting southern borders from an uncontrolled influx of refugees and migrants. Partly because of the social ramifications, large-scale immigration will not be a viable long-term solution to population decline in developed countries. The number of migrants needed to keep dependency ratios more balanced is too large for the vocal xenophobic segments of European society to accept, as many segments are already worried about the “Islamization” of Europe. In order to keep the current ratio of workers to dependents in Europe, migration would need to increase to an average of 25 million annually. According to demographer David Coleman, this high rate of migration “would treble Europe's population by 2050 from 754 million to 2.35 billion, and so on at an accelerating rate.”<sup>10</sup> Migration on this scale would change the political landscape of Europe dramatically, and leadership would not agree to such a large-scale opening of Europe's borders. The growth of anti-immigrant parties and candidates across Europe reflects this impediment to immigration. For example, French President Nicolas Sarkozy has advocated measures to halt illegal immigration and favors deportation. He also



Soldier talks with local boy during patrol in Baghdad

9821 Combat Camera Company (Jeffrey Alexander)

plans to block Turkey's bid to join the EU and thus prevent those Muslim immigrants from entering the union. Given the difficulty of both choices—acceptance of aging or large-scale migration—waning European support for U.S. operations is plausible. Europeans may have neither the political will nor the physical resources to support stability operations or any other traditional defense mission.

*The Challenges of Youth.* On the flip side, many challenges are associated with youthful age structures, primarily the risk of increased conflict. There is a robust correlation between youth bulges and armed conflict, especially under conditions of economic stagnation.<sup>11</sup> In 2000, 300,000 soldiers younger than 18 were involved in 30 conflicts around the world.<sup>12</sup> Additional factors such as relative deprivation, historical/cultural grievances, and pervasiveness of extremist ideology could ignite tensions and mobilize youth, and the potential for discontent is high. There are 1.3 billion 12- to 24-year-olds in developing countries—roughly 30 percent of these countries' total population and 86 percent of youth worldwide.<sup>13</sup> Unlike their Western counterparts, these youths face few positive prospects. To begin, individuals aged 15 to 24 are the fastest growing segment of the newly infected HIV/AIDS population. Of this age group, women fare even worse than men, and 57 million of these young women cannot even read or write.<sup>14</sup> As many observers of international trends note, the sad prospects for these individuals can make them suscep-

tible to radical ideologies and even incite them to full-blown violence.

One area of the world with a preponderance of youth but a dearth of opportunities is the Middle East/North Africa region. Because of a lack of institutional ties, many of these approximately 120 million youths have little to lose and are not socialized to become productive citizens. They are absent from social institutions because many never marry, from economic institutions because many are unemployed, and from political institutions because many cannot participate under authoritarian rule. According to the 2006 World Bank annual report on the Middle East and North Africa, about 100 million new jobs would need to be created in this region to keep pace with the high number of new labor entrants and those already unemployed.<sup>15</sup> Though the region has seen a slight upswing in economic growth, current rates are not robust enough to put the region on task for creating this large number of jobs, and these youth will look for other, potentially negative, ways to spend their time and energy.

*Resource Competition.* Many states will be driven to innovate and seek resources because of their demography. These are the states that will have the greatest potential to compete with the

United States, though they may be limited by a lack of political and social cohesion. More lax ethical and legal codes will create conditions for these states to eclipse the United States in areas such as nanotechnology and to forge relationships with resource-rich regimes that America shuns for political and human rights violations.

The potential for Asian giants such as India and China to participate in globalization (not only through new products, but also through new business models) means that the West may have to compete with these states for influence in Latin America, Africa, and Central Asia—a modern-day version of the

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Locals gather at U.S.-supported youth center in Goma, Republic of Congo

UN (Marie Frechon)

“Great Game.” Competition for influence is most apparent in Latin America. For example, China, Iran, and Russia have forged ties over energy interests in South America, particularly with Venezuela. Of all the foreign powers with hands in the Western Hemisphere, China appears to concern the United States most. Driven by population growth and increased standards of living, China has looked to Africa and Latin America in its global search for energy. Beijing has invested almost \$4 billion in infrastructure projects in Bolivia and Venezuela since 1999, partly to secure access to energy.<sup>16</sup> In January 2007, the China National Offshore Oil Corporation announced that it planned to spend \$2.21 billion for a 45 percent stake in an offshore Nigerian oil field.<sup>17</sup> As Phillip Saunders has written, “China’s [foreign direct investment] and development assistance efforts are modest compared with U.S., European Union, and Japanese programs, but China uses them effectively and strategically to advance its interests.”<sup>18</sup> Saunders cites the relative U.S. deprioritization of Latin America as part of the reason why China’s modest efforts at securing ties have been successful.

*Window of Opportunity.* Although part of China’s motivation for reaching out to Latin America is its own population-driven need for resources, demographic trends within Latin America suggest that other major global players may be drawn to the region for what its population can offer. Most states within Latin America are in or are entering the demographic window of opportunity, or demographic bonus. During this time, the age structure shifts so there are more workers relative to dependents, both old and young. This age structure emerges when a state has had an extended period of lowered fertility, but not for so long that there are too few new workers entering the workforce (as in Japan today). The bonus comes from the fact that throughout this age structure, the state receives more in productivity from workers than it pays out to dependents in benefits—when people produce more than they consume. Experts argue that between a quarter and two-fifths of the rapid economic growth in East Asia between 1965 and 1990 was a result of favorable demography, when the working-age population of these states grew around four times faster than the youngest and oldest cohorts.<sup>19</sup> Now, China, Japan, and South Korea are all global powers in their own right. But age structure is not enough; states need sound policies to capitalize

on working-age population growth. According to the United Nations:

*If societies invest in health and education and job creation, the resulting economic gains will improve the overall quality of life and reduce the burden of supporting older populations in the future. But failure to create new jobs for growing populations, and to reduce existing unemployment, may lead to social unrest and instability.*<sup>20</sup>

South Korea and China have capitalized especially well on their demography. According to an assessment by the Population Reference Bureau, “Strong educational systems and greater international trade enabled several national economies to absorb this ‘boom’ generation into its workforce.”<sup>21</sup> States with an abundance of workers and favorable political climates attract investment and boost a state’s standing in the international system. Though Latin America has not yet shown the same promise as East Asia during its boom time, it has the potential to be strategically important, and greater attention and investment there now could yield benefits—such as increased

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coalition contributions—in the future. The United States should try to capitalize on and promote these states’ economic, political, and social capacities in order to foster regional growth and stability.

*U.S. Options.* As mentioned, the United States has the ability, with foresight, to position itself to strengthen its relationships with rising powers that will have greater future capabilities. Demography is an influential driver of those capabilities and is thus a useful tool for assessing alliances. With most of the Western and East Asian powers aging on the horizon and Latin America and the Middle East continuing to grow, centers of economic growth and productivity could shift to more populous states, with younger labor pools, if the domestic investment climate is favorable. The United States has been focusing on China’s growth, but over the next several decades, India’s influence is likely to grow relative to China’s as the latter ages after 2025. This assumes that India is able to seize the opportunities of its anticipated favorable demographic future: lowered fertility and a greater number of workers relative to dependents.<sup>22</sup> For India, success requires solid governance and an ability to capitalize on opportunities by developing solid policies.

At a minimum, the United States can choose to view the development of Asia and Latin America as aiding economic globalization and welcome the increases in standards of



Elderly Japanese residents exercise during health promotion on Respect the Aged Day in Japan

AP/Wide World Photo (Koji Sasahara)

living likely to accompany them. These states will have a greater capacity to fight poverty and disease in their own countries and defend their own borders and, as integrated members of the global economy, will have a greater stake in the continuation of a peaceful economic system.

**Military Manpower.** The military is directly affected by changes in fertility and mortality rates because these rates drive both allies' and adversaries' available military manpower. States facing demographic problems in the next couple of decades generally fall into one of three categories that characterize their manpower issues: too sick, too many, or too few. Some states have populations that will be too sick—for example, Russia and most African states will face a shortage of healthy males.

In Russia, the number of males turning 18 is projected to decrease by 50 percent over the next 10 to 15 years.<sup>23</sup> More importantly, those cohorts in their 20s and 30s, who are normally some of the most productive members of a society, are experiencing extremely high death rates from accidents, alcohol, and heart disease. Even within the Russian military, from January to September 2003, 1,200 soldiers died in noncombat situations, mostly from accidents, carelessness, bullying, and suicide.<sup>24</sup> The implications of a sick Russian force are unclear, but this decline could cause a restructuring of the military, which has historically boasted strong ground forces. At one end of the spectrum of responses, Russian leadership may feel the need to overcompensate for personnel weaknesses by relying more on nuclear weapons and on nonmilitary means of wielding power, like leveraging energy resources. On the other end, a militarily weakened Russia may be powerless against fissures, as in Chechnya, or exploitation of its resources, perhaps by China. The ascendant economic and political strength of the latter could shift the regional balance of power even further away from Russia. Putin, while recognizing that Russia's declining population is a problem, seems to be focusing on raising the birthrate, which only addresses half of the problem; the high death rate of the working-age population is equally detrimental.

HIV/AIDS has been the primary culprit of Africa's weakened military-age population. According to researchers at the Worldwatch Institute, "Soldiers are among the most vulnerable to the disease, and in many countries HIV infection rates are several times higher in the military than among civilians."<sup>25</sup> In Zimbabwe and Cameroon, infection rates are three to

four times higher for the military than for the civilian population.<sup>26</sup> Several factors make the military community particularly vulnerable to high rates of infection: lengthy periods away from home and family, a risk-seeking culture, preponderance of personnel within the greatest at-risk ages of 15 to 24 years, and access to money for prostitutes and illicit drugs.<sup>27</sup> One security implication is that these rates could affect military preparedness. Especially concerning to the United States is the potential effect on African peacekeeping forces. Another consequence is that a high rate of HIV/AIDS in the military can affect state stability. Radhika Sarin states, "For nations that are already politically unstable, even the perception of a weakened military can make them susceptible to an internal coup d'état or enemy attack."<sup>28</sup>

A separate manpower issue is that some states will have too many people to deal with adequately. Several Middle Eastern states will face an overabundance of youth, with the military one of the few outlets for employment. In these states, the military is often an extension of the welfare state. For example, the problem of "too many" has been acute in Iraq. Before disbanding in 2003, the Iraqi military was the primary employer of young men. Today, without that guarantee of employment, those young men are susceptible to insurgent recruitment. As the *Washington Post* reported, "U.S. and Iraqi officials acknowledge that every

posture, which thus far has realigned the Armed Forces from their traditional locations within Germany, requires aging states to supply more of their own ground forces as their recruiting pools shrink. South Korea and Japan, for instance, will be relying more on their own manpower in lieu of U.S. forces even as they age. Technology can fill part of the gap, but these militaries will still feel the effects of fewer soldiers.

## Key Trend 2: Migration

As with the youth bulge, understanding the implications of migration can help defense planners anticipate future conflicts. Mass migration can alter a country's religious, ethnic, gender, age, and cultural landscape within a much shorter time than can birth and death cycles. The ability of mass migration to change a country's status quo means that it has the potential to instigate conflict, or at least create divisions. This conflict, in turn, drives migration. In Central Asia and the Middle East, movement of people potentially upsets a delicate demographic balance among tribes and religious sects. For example, the United Nations Refugee Agency reports that over 2,000 Iraqis seek refuge in Syria every day and estimates that there are over 2 million Iraqi refugees in the Middle East.<sup>31</sup> The large influx of Iraqis has increased competition for scarce resources—jobs and services—and strained the

## *AIDS has been the primary culprit of Africa's weakened military-age population*

young man without work is a potential recruit for insurgents who pay as little as \$50 to people who plant explosives on a highway or shoot a policeman."<sup>29</sup> Unless the state has the capacity to absorb and provide for the working-age population, that population can be a threat rather than an asset.

Finally, some states will have too few young people. As discussed earlier, Europe and Japan will face a smaller pool from which to recruit. According to the European Defence Agency, Europe's armed forces recruiting pool, which consists of those between ages 16 and 30, will fall 15 percent by 2025.<sup>30</sup> Though this is only a small contraction, recruitment will likely be more expensive at a time when defense budgets are already threatened by entitlement promises made to an aging population. A higher recruiting expense might mean that aging states increasingly turn to technology instead of manpower. The new U.S. global

capacity of states to meet the needs of their citizens and the refugees within their borders. In a worst-case scenario, the change in religious and ethnic balance, coupled with competition over resources, could spark conflict and destabilize regimes.

An oft-cited example of the security implications of migration and fertility is that of Israeli Jews and Arabs. The differential growth of these two groups is partly due to a near cessation of migration to Israel, combined with low birthrates of most Jewish Israelis and high birthrates of Palestinians and Israeli Arabs. Some argue that differential growth is projected to make Israel a majority Arab state in the next couple of decades, placing Israel's identity as a Jewish homeland at risk. Such a transition would not likely be peaceful, as the Jewish Israelis in power would almost certainly resist this shift, leading to an escalation of the current conflict.<sup>32</sup>

Another challenge associated with large-scale migration is that refugee camps often become sanctuaries for militia groups and deeply radicalized communities (for example, Pakistan). An article by Kenneth Pollack and Daniel Byman described some of these challenges in the context of current conflicts in Afghanistan and Iraq. According to the authors, former tribal leaders often incite their followers to violence to compensate for the loss of their traditional base of power.<sup>33</sup> Experiences in Afghanistan demonstrate that just removing tribal leaders from official positions does not guarantee that their influence and ability to cause havoc will be blocked.

Immigration to the United States has gained international attention as well. While Americans debate the extent to which Muslim immigration and integration in Europe will change European domestic and foreign policy, Europeans are debating similar questions in the context of Latin American immigration into the United States. Many allies wonder whether a growing Latin American minority in the United States will influence U.S. foreign policy southward and away from Europe. Their reservations underline that the United States needs not only to look at others' demographic patterns, but also to consider how its own demographic trends are perceived and analyzed abroad.

Despite the connection of migration to conflict under some circumstances, migration driven by economic factors tends to be beneficial to both the sending and receiving countries.<sup>34</sup> Migration fuels the global economy by efficiently distributing labor and provides opportunities for citizens to gain skills, receive education, and provide remittances to family back home. Immigration also has helped mitigate the effects of population aging in the United States. Historically, conflict and economic change are the greatest drivers of mass migration. Mapping turbulent regions can help planners anticipate future waves of migration and their potential impact on the landscape of sending and receiving countries. Additionally, we can expect that push-and-pull economic factors, enhanced by globalization, will continue to drive south-to-north migration as well as population shifts between rapidly and slowly developing states in the global south as migrants seek a better way of life.<sup>35</sup>

### Key Trend 3: Urbanization

Urbanization—movement of people from sparsely settled rural to densely

populated urban areas—is one trend likely to define the next 30 years. The number of urban residents worldwide is expected to rise from 2.9 billion in 2000 to 5 billion by 2030, with virtually all growth occurring in developing countries. Humanitarian disasters associated with or exacerbated by urbanization can result in disarray. The United States or its allies could be asked to provide stability in either case. U.S. defense planners should be aware of the likely increased demand for stability operations and humanitarian assistance arising from the vulnerability of massive coastal urbanization to natural disasters. Additionally, the squalor of contemporary urban slums brings a greater death toll than even large-scale weather or seismic-related natural disasters. According to the United Nations, “1.6 million people die annually as a result of poor sanitation and hygiene—a number 5 times greater than the deaths in the 2004 Indian Ocean tsunami.”<sup>36</sup> One of the biggest problems is that most cities, especially in the developing world, lack the structural, political, and social capacity

lives in areas that were affected at least once by a natural disaster such as a drought or an earthquake between 1980 and 2000.<sup>38</sup>

By 2015, the world may contain as many as 22 *megacities*, defined as cities with populations of over 10 million.<sup>39</sup> While Tokyo will remain the largest, Mexico City, Mumbai (India), and Lagos (Nigeria) will grow rapidly. But urbanization will take different forms. For some states, it will bring technology, education, and health care to the masses. For others, it will take the form of ever-expanding slums around city centers. The United Nations concludes, “If no preventive or remedial action is taken, [slums] may indeed come to characterize cities in many parts of the developing world.”<sup>40</sup> The most affected areas are sub-Saharan Africa, Southern Asia, and Western Asia. In its report, *State of the World's Cities 2006/7*, the United Nations argues that the locus of poverty is actually shifting from rural to urban areas as a general trend, and the assumption that rural dwellers are comparatively worse off than their urban counterparts is incorrect.

*many allies wonder whether a growing Latin minority in the United States will influence U.S. foreign policy southward and away from Europe*

to meet challenges associated with natural disasters.<sup>37</sup> The frequency of these calamities—combined with the migration trend—means that defense planners are wise to prepare for those contingencies. For example, at least 75 percent of the world's population

Urban dwellers are especially disadvantaged because of the prevalence of urban slums. For example, the growth of Lagos, the world's fastest growing megacity, is outpacing urban planners and leaving the city rife with corruption, sewage, and pollution.



Nicaraguan children wait to receive meals as part of country's "Zero Hunger" program

AP/Wide World Photo (Esteban Felix)

One of the challenges of urbanization for the defense community is increased internal instability. Urbanization in states with a preponderance of youth is dangerous because these states' proclivity for violence and rebellion can be exacerbated by unmet expectations in overcrowded cities. For the Department of Defense, this instability could challenge the ability of the United States to build partnership capacity, one of the key goals articulated in the 2006 Quadrennial Defense Review. If America wants to build the capacity of partners in the Middle East, Africa, and West Asia to protect their own sovereignty (and thus decrease their vulnerability to insurgents and terrorists), urbanization poses a problem because of its destabilizing effects. Urban instability also translates to a greater requirement for U.S. forces to operate in urban environments and means that police and military functions will increasingly overlap.

*Rural-Urban Tension.* Slums are not the only security problem associated with urbanization. Increased competition between urban and rural interests over uneven distribution of state resources can also be internally destabilizing by causing fissures within the state. In China, "in 2001, per capita disposable income for urban residents was \$829 compared to \$278 for rural residents. In 1987, the income of the average urban household was almost twice that of the average rural household; today it is almost three times higher."<sup>41</sup> These urban-rural fissures are partly responsible for China's increasing internal unrest, including protests over the lack of rural services. The Chinese government has recently acknowledged this connection and, seeing it as a threat to the regime, has begun several initiatives to raise the rural standard of living.<sup>42</sup>

Another result of urban-rural differences is that city agendas may increasingly diverge from those of the state as a whole, creating a sort of city-state system similar to present-day Hong Kong. For example, within Mexico, the extreme imbalance in wealth between the rich north and the poor south has fomented internal strife that is at times violent. In the southern state of Chiapas, per capita income was only 18 percent of that in Mexico City in 2000.<sup>43</sup> These overt inequalities have fueled the Zapatista movement.<sup>44</sup> Given that China and Mexico are two key states for U.S. foreign policy, an understanding of how demographics are likely to affect their stability is essential for defense planners.

*Connections to Terrorism.* As another unintended consequence, urbanization can

facilitate terrorism in two ways. First, since urbanization concentrates people and centers of business and productivity, it allows terrorists to create a big impact with one violent stroke. The economic aftershocks are often the most damaging. According to the United Nations, "New York City lost an estimated \$110 billion in infrastructure, buildings, jobs and other assets in the wake of the World Trade Center attacks. . . . Global gross domestic product . . . dipped by 0.8% and some 10 million more people joined the ranks of the world's poor."<sup>45</sup> Second, the deprivation of urban slums can breed discontent and motivate terrorists; the ungoverned areas of urban slums can be an excellent place for radicals to hide and plot.

If, as suggested above, urbanization does lead to civil strife, it can burden governments, strain their administrative capacity, and erode public support for weak or unresponsive regimes.

Despite challenges, urbanization is not inherently bad. Its effects are highly dependent on the context in which it takes

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*states with weak  
demographic futures may  
rely on nuclear weapons  
or other weapons of mass  
destruction to secure  
national interests*

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place. When states have the capacity to build infrastructure, citizens in urban areas tend to be better educated and have greater access to health care. Urbanization has helped make the Chinese economy one of the most competitive in the world. On the other hand, urbanization in Sudan has contributed to pervasive violence and aided the spread of disease. This disparity demonstrates that the effects of urbanization can be mitigated by increased state capacity.

## Recommendations

Because of the way demographics—combined with other trends—will have the potential to change politics at both the great power and the substate levels, the Department of Defense must plan for multiple demographics-related contingencies. Four recommendations are outlined below.

*Continue to Plan for Both Traditional and Irregular Warfare.* States with weak demographic futures may rely on nuclear weapons

or other weapons of mass destruction to secure national interests, altering U.S. deterrence capabilities. Traditional interstate conflict remains viable because economic development, combined with population pressures, will increase competition between states over resources. Yet the same competition domestically could lead to greater intrastate violence, with the potential to draw in the United States and its allies. Increased likelihood of civil conflict in youthful or urban slum areas will sustain the U.S. requirement for stability and counterterrorism operations in a wide range of environments.

*Use Demography to Identify Future Hotspots.* Demography can allow the United States and others to preposition humanitarian relief assets near unstable regions, giving ample time for personnel to acquire the linguistic and cultural expertise needed to operate in these regions. America should also be aware that instability stemming from demographic tensions could damage our partnerships in the Middle East. For example, the diplomatic and financial support that Saudi Arabia and Qatar offer the United States could be hampered by the projected near-doubling of their populations.

*Increase Awareness of Domestic U.S. Demographic Trends.* Demographic change within America could affect defense planning as well. While it is possible that a growing Latin minority in the United States could drive political change that orients U.S. foreign policy away from traditional areas such as Europe and toward Latin America, the perception that it could do so may be even more important. U.S. demographic trends could cause American allies to question the Nation's resolve or ability to fulfill its alliance and other defense commitments. Other states are watching demographic trends in the United States for their own defense planning. By incorporating analysis of U.S. demographic trends, and understanding how states perceive those trends, American defense planners can develop the right assumptions to enhance strategic planning.

*Use Demography to Help Direct Foreign Assistance.* While demography is useful for pointing out potential problems, it also highlights contemporary issues that demand urgent attention. Countries dealing with problems stemming from urbanization would benefit from foreign assistance to help manage slum areas and prevent these areas from becoming terrorist breeding grounds. Likewise, Latin American states in the

window of opportunity would benefit from assistance designed to help them capitalize on their favorable demography.

It is not only individuals who bear the costs or reap the benefits of their fertility decisions; the externalities affect society as a whole, as well as neighboring states and even the international system. Given the power of age structure changes, migration, and urbanization to shape capabilities and instigate conflict or cooperation, the United States should account for the potential influence of these population trends in its strategic planning to secure its privileged position in the global community. **JFQ**

## NOTES

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<sup>3</sup> Robert Tait, "Ahmadinejad Urges Iranian Baby Boom to Challenge West," *Guardian Unlimited*, October 23, 2006.

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<sup>6</sup> Population Reference Bureau, "2006 World Population Reference Sheet" (Washington, DC: Population Reference Bureau, 2006).

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<sup>14</sup> Rachel Nugent, *Youth in a Global World* (Washington, DC: Population Reference Bureau, 2006), 2.

<sup>15</sup> "Middle East and North Africa," in *World Bank Annual Report* (Washington, DC: The World Bank, 2006).

<sup>16</sup> Phillip C. Saunders, *China's Global Activism: Strategy, Drivers, and Tools*, Occasional Paper 4 (Washington, DC: National Defense University Press, 2006), 45.

<sup>17</sup> Paul McLeary, "A Different Kind of Great Game," available at <[www.foreignpolicy.com](http://www.foreignpolicy.com)>.

<sup>18</sup> Saunders, 2.

<sup>19</sup> Mary M. Kent and Carl Haub, "Global Demographic Divide," *Population Bulletin* 60, no. 4 (2005).

<sup>20</sup> United Nations (UN) Population Fund, "The New Generations: Shift to Smaller Families Can Bring Economic Benefits," available at <[www.unfpa.org/swp/1998/newsfeature1.htm](http://www.unfpa.org/swp/1998/newsfeature1.htm)>.

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<sup>24</sup> Stephen Dalziel, "Death Rate High in Russian Army," BBC, September 13, 2003.

<sup>25</sup> Radhika Sarin, "The Enemy Within: AIDS in the Military," 2003 (online discussion).

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<sup>30</sup> European Defence Agency.

<sup>31</sup> UN Refugee Agency, "Syria and Jordan Still Wait for Help Despite Pledges Made at Iraq Meeting,"

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<sup>34</sup> UN, "International Migration and Development: Report of the Secretary-General," 2006, 13, available at <[www.un.org/esa/population/hldmigration/](http://www.un.org/esa/population/hldmigration/)>.

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<sup>36</sup> UN Human Settlements Programme, "Slums: Inadequate Sanitation and the Silent Tsunami," in *State of the World's Cities 2006/7*, available at <[www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%207.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%207.pdf)>.

<sup>37</sup> UN Human Settlements Programme, "The Urban Penalty: Conflict and Natural Disaster," in *State of the World's Cities 2006/7*, available at <[www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%2023.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%2023.pdf)>.

<sup>38</sup> Ibid.

<sup>39</sup> Population Division, Department of Economic and Social Affairs, "World Urbanization Prospects: The 2005 Revision," available at <[www.un.org/esa/population/publications/WUP2005/2005wup.htm](http://www.un.org/esa/population/publications/WUP2005/2005wup.htm)>.

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<sup>41</sup> UN Human Settlements Programme, "China's Rising Cities," in *State of the World's Cities 2006/7*, available at <[www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%2011.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%2011.pdf)>.

<sup>42</sup> For example, see Jim Yardley, "China Unveils Plan to Aid Farmers but Avoids Land Issue," *The New York Times*, February 23, 2006.

<sup>43</sup> The World Bank, "Latin America Needs to Cut Poverty to Boost Growth," available at <<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:20818951~pagePK:64257043~piPK:437376~theSitePK:4607,00.html>>. See also Philip Howard and Thomas Homer-Dixon, "The Case of Chiapas, Mexico," in *Ecoviolence: Links among Environment, Population, and Security*, ed. Thomas Homer-Dixon and Jessica Blitt (Lanham, MD: Rowman and Littlefield, 1998).

<sup>44</sup> Howard and Homer-Dixon.

<sup>45</sup> UN Human Settlements Programme, "The Urban Penalty: New Threats, Old Fears," in *State of the World's Cities 2006/7*, available at <[www.unhabitat.org/documents/media\\_centre/sowcr2006/SOWCR%2010.pdf](http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%2010.pdf)>.



Harry S. Truman Library and Museum

President Harry S. Truman meets with members of the National Security Council, August 19, 1948

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The National Security Act of 1947 was a compromise—between advocates and opponents of a highly centralized military establishment, between supporters of a regularized process for interagency policymaking and defenders of Presidential prerogatives, and between an executive branch needing new legal authorities to deal with a postwar world and a Congress determined to maintain its special powers over the Armed Forces.

As a compromise, the new law disappointed most of the contending factions by falling short of what many advocates wished while going beyond what others considered acceptable. Once enacted, however, it took on a solidity and rigidity that made changes difficult.

Many ironies are reflected in this law. It arose as a measure to reorganize the military, yet it was transformed into basic law for foreign policy and the Intelligence Community. It was crafted as a means to impose restraints on military spending, yet it provided the framework

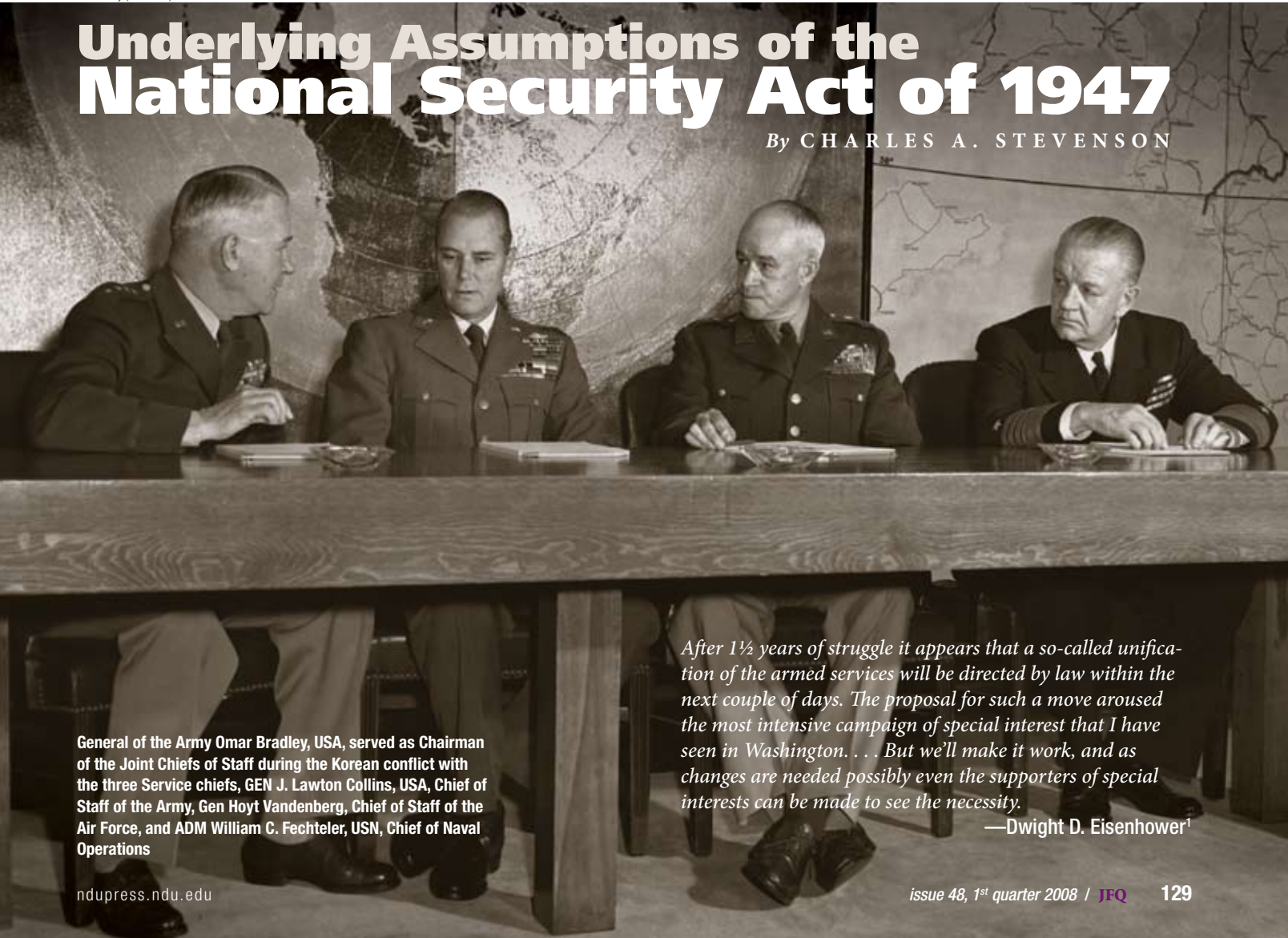
for the Cold War military buildup. Its strongest opponent was given the job of putting it into practice, yet James Forrestal himself became an advocate for changes that he had fiercely resisted. It had been one of the highest priorities for the President who signed it into law, yet he deliberately ignored or tried to undercut some of its most important provisions. The system created by the law may have been “flawed by design,” as one scholar labels it,<sup>2</sup> yet it has persisted, with only three far-reaching amendments—in 1949, 1958, and 1986.

Any effort to make major changes in this 60-year-old law must recognize its enduring strength and overall success. The “flawed” provisions still allowed successive leaders to make bold decisions and implement widely varying policies. Although like all laws, its words are subject to review and change, this landmark measure carries a legacy of precedents, understandings, and accommodations that impose extra burdens on the proponents of change. Even if some of the outcomes of this law were

U.S. Navy (Knudsen)

# Underlying Assumptions of the National Security Act of 1947

By CHARLES A. STEVENSON



General of the Army Omar Bradley, USA, served as Chairman of the Joint Chiefs of Staff during the Korean conflict with the three Service chiefs, GEN J. Lawton Collins, USA, Chief of Staff of the Army, Gen Hoyt Vandenberg, Chief of Staff of the Air Force, and ADM William C. Fechteler, USN, Chief of Naval Operations

*After 1½ years of struggle it appears that a so-called unification of the armed services will be directed by law within the next couple of days. The proposal for such a move aroused the most intensive campaign of special interest that I have seen in Washington. . . . But we'll make it work, and as changes are needed possibly even the supporters of special interests can be made to see the necessity.*

—Dwight D. Eisenhower<sup>1</sup>

unforeseen and perhaps inadvertent, the details were deliberately chosen to balance the contending views.

It is useful to look back at the process that resulted in this law and to dissect its key provisions, looking for the explicit and implicit assumptions that underlay its enactment.

### Contending Forces

As World War II was drawing to a close, senior civilian and military leaders began looking toward the postwar environment. They knew that the Armed Forces had to be substantially demobilized, but they also knew that the United States could not retreat into its isolation of the interwar years. Even before it became clear that the Soviet Union would end its wartime alliance and become a political and military threat, U.S. leaders believed that America had to shoulder additional international obligations. The advent of nuclear weapons underscored the increased risks of the new international situation.

With Franklin Roosevelt's death in April 1945, and the accession to the Presidency of the relatively inexperienced Harry Truman, many senior officials wanted to create a policy structure that minimized the role of personal idiosyncrasies and maximized rational strategic planning. Even loyal admirers of Roosevelt, such as Secretary of War Henry Stimson, had been dismayed by FDR's management style. As Stimson confided to his diary in 1943, "The President is the poorest administrator I have ever worked under in respect to the orderly procedure and routine of his performance. He is not a good chooser of men and he does not know how to use them in coordination."<sup>3</sup> Many senior leaders did not want the same organizational chaos to continue under Truman.

Army leaders had a plan: the Armed Forces would be unified under a single Chief of Staff and a single Secretary of the Armed Forces, with separate land, sea, and air components, but not separate departments. They argued that the principle of unity of command worked well in the war zones and needed to be extended to Washington. Truman agreed: "We must never fight another war the way we fought the last two," he told his staff. "I have the feeling that if the Army and the Navy had fought our enemies as hard as they fought each other, the war would have ended much earlier."<sup>4</sup>

Navy leaders opposed unification, fearing that they would suffer in the competition for resources, be outvoted by the Army and new Air Force chiefs, and lose naval aviation and

the ground combat forces of the Marine Corps. The result would be "fatal" to the sea service, Navy Secretary James Forrestal believed.<sup>5</sup>

To reverse the threatening tide, Forrestal seized upon a May 1945 proposal from the Chairman of the Senate Naval Affairs Committee, David Walsh (D-MA), who warned that "those of us who feel such a consolidation would not be effective should attempt to formulate a plan which would be more effective." Walsh urged Forrestal to make "a thorough study" of the matter and specifically suggested a "Council on National Defense as an alternative" to the proposed defense department.<sup>6</sup>

Forrestal asked a longtime friend, Ferdinand Eberstadt, to conduct the study. A 250-page report was submitted in September and sent to Congress in October 1945. The Eberstadt report marshaled the arguments against consolidation and fleshed out the idea of a National Security Council (NSC) as a substitute. Eberstadt argued that military unification "looks good on paper" but "has never been

*many senior officials wanted to create a policy structure that minimized the role of personal idiosyncrasies and maximized rational strategic planning*

put to the acid test of modern war." The idea "strikes deeply into the traditions, fiber, morale, and operations of our military services." He also noted that the only countries that had tried such systems had no civilian control of the military. Eberstadt doubted that a single person could run the huge consolidated department: "The lone civilian Secretary would run the risk of becoming a mere puppet, completely hemmed in by the regular establishment." He also warned that "under unification Congress would be presented only with a single 'organizational line.'"<sup>7</sup>

The case for a National Security Council was powerful in its own right. Eberstadt argued that "strategic planning and operational execution were good" during the war, but that "there were serious weaknesses in coordination." He pointed out:

*Gaps between foreign and military policy—between the State Department and the Military Establishments. Gaps between strategic planning and its logistical implementation—between the Joint Chiefs of Staff and the military and*

*civilian agencies responsible for industrial mobilization. Gaps between and within the military services—principally in the field of procurement and logistics. Gaps in information and intelligence—between the executive and legislative branches of our Government, between the several departments, and between Government and the people.*<sup>8</sup>

Eberstadt proposed an NSC to formulate and coordinate overall policies in political and military fields; to assess and appraise U.S. foreign objectives, commitments, and risks; and to keep these in balance with American military power. He envisioned "a policy-forming and advisory, not an executive, body." He also said that such a structure could wage both peace and war. The members were to be the President as Chairman, plus the Secretaries of State, the three military departments, the Chairman of a new National Security Resources Board, which was to plan defense mobilization, and the Joint Chiefs of Staff.<sup>9</sup>

The idea of a National Security Council found favor with proponents of consolidation, but Forrestal and his congressional allies continued to fight Truman and the Army throughout 1946 and into 1947. Finally, the President insisted on a compromise that Navy supporters could accept—and that became the National Security Act of 1947.

That law created the post of Secretary of Defense but gave him only "general direction, authority, and control" over the three separately administered military departments, called the National Military Establishment.<sup>10</sup> The Department of Defense was not created until the 1949 revisions to the act. But the 1947 law also created the NSC and the Central Intelligence Agency. One of the strongest advocates of military unification, General George C. Marshall, was then Secretary of State, and he complained to President Truman that the proposed law would greatly "diminish the responsibility of the Secretary of State" and make him only "the automation of the Council." Marshall also warned against the dominance of the military departments over foreign affairs.<sup>11</sup> His criticism did not stop the momentum for a comprehensive new law. Congress passed Truman's compromise bill with no significant changes in July 1947.

### Enduring Assumptions

Lawmakers thought that they were passing far-reaching legislation. The new law "may well change the course of history," said the Chairman of the Senate Armed Services

Committee, John Chandler Gurney (R-SD). “It is now within our power to give the President the help he so urgently needs, and to replace the security organization of 1798 with the organization of 1947.” An opponent, Senator Edward Robertson (R-WY), warned of the law’s likely impact, saying that it would “create a vast military empire . . . which will wield untrammelled power over the entire social and economic structure of the Nation.”<sup>12</sup>

The objectives of the 1947 act were clearly expressed in the first few pages of the bill. The title declared its purpose as “to promote the national security by providing for a Secretary of Defense, for a National Military Establishment . . . and for the coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security.”<sup>13</sup>

Congress’s declaration of policy was also straightforward:

*In enacting this legislation, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide three military departments for the operation and administration of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control but not to merge them; to provide for the effective strategic direction of the armed forces and for their operation under unified control and for their integration into an efficient team of land, naval, and air forces.*<sup>14</sup>

In the law and other statements, Congress made clear that the landmark legislation was premised on several basic assumptions, some explicit in wording and others implicit in the structures and procedures created:

■ The United States faces a new international situation with increased responsibilities and unprecedented threats. The Eberstadt report was completed only a few weeks after the disclosure of the development and use of nuclear weapons and less than a month after the Japanese surrender. Yet it reflected a broad consensus that had already emerged when it spoke of the “greatly enlarged . . . sphere of our international obligations” as well as the “Revo-

lutionary factor of speed and destruction” in warfare. President Truman noted in a message to Congress, “whether we like it or not, we must all recognize that the victory which we have won has placed upon the American people the continuing burden of responsibility for world leadership.”<sup>15</sup>

■ U.S. national security requires more extensive, effective, and deliberate “integration of domestic, foreign, and military policies.” This was a central premise of the Eberstadt report, which stated, “For our own safety, we must in the future keep our political and military policies, objectives and actions consistent and in balance.” It also called for “an intimate, active and continuous relationship between those responsible for our foreign and military policies.” The Senate Armed Services Committee argued that “we must make certain that our foreign and military policies are mutually supporting.” Indeed, there was a broad consensus view of wartime policymakers on the need for better interagency coordination, both in policy development and in execution. One of the declared goals of the 1947 act was “to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security.”<sup>16</sup>

■ Integration has to occur at the highest levels of government, with the President receiving a broad range of advice from civilian and military officials. Lawmakers recognized that the President was the ultimate deci-

sionmaker and should receive wide-ranging advice. Forrestal in particular wanted to be sure that Harry Truman listened to civilian officials instead of excluding them, as Roosevelt had done during much of the war. Despite his service in the Senate, Truman was a strong defender of Presidential prerogatives and responsibilities. He made little use of the National Security Council before the Korean War in part because he believed it was an effort by Forrestal to impose a British cabinet-type system. He believed that only the President could make decisions or be held accountable. “There is much to this idea,” Truman wrote in his memoirs. “In some ways a Cabinet government is more efficient—but under the British system there is a group responsibility of the Cabinet. Under our system the responsibility rests on one man—the President.”<sup>17</sup>

■ The Armed Forces should always be subject to unquestioned civilian control. Both supporters and critics of military consolidation stressed the importance of civilian leadership. Senators opposing the Army-backed unification bill in 1946 claimed that it “reduces civilian control over our military establishments to the vanishing point,” that

*Forrestal wanted to be sure that Harry Truman listened to civilian officials instead of excluding them, as Roosevelt had done*



Secretary of Defense Melvin R. Laird meets with members of Armed Forces Policy Council at Pentagon, January 1973

DOD (David Wilson)

“the budget becomes essentially a military document,” and that the new Secretary of Defense “will be putty in the hands of the Chief of Staff.”<sup>18</sup> To respond to those concerns, lawmakers in 1947 chose not to create a single Chief of Staff, and they required that the Secretary of Defense be a civilian. Congress also provided that at least one of the top two officials in the Central Intelligence Agency had to be a civilian.

*prior to 1993, little was done to include domestic and economic matters as part of national security policymaking*

■ There should be a Central Intelligence Agency to coordinate the activities of the several intelligence activities of the government and “to perform such other functions and duties relating to intelligence” as the NSC should direct.<sup>19</sup> Responding to investigations of the surprise Pearl Harbor attacks, Congress wanted to be sure that intelligence was developed in a fully collaborative way. When Congress concluded that the Director of Central Intelligence was not as powerful as envisioned in the 1947 act, it created in 2004 the post of Director of National Intelligence, with broader authority over the Intelligence Community.

■ Congress needs to provide close and continuing oversight of national security activities. The Eberstadt report recognized “Congressional interest in, and control of, the military services” as a constitutional principle and as a means of maintaining civilian control. Lawmakers had tolerated the administrative flexibility and virtually unlimited spending of the war years and wanted to return to the regular order of legislative control. Starting with the 1947 act, they required the Secretary of Defense to submit “annual written reports” to Congress and the President. Even more reporting requirements were added in later years, along with annual authorization hearings and bills in addition to the required appropriations measures. In order to prevent executive branch muzzling of military views, Congress also specifically authorized the chiefs to “make such recommendations to Congress” as they considered appropriate.<sup>20</sup>

These assumptions have endured throughout the past six decades and have remained core principles even as the basic law has been significantly amended.

### Revised Assumptions

Other assumptions in the 1947 law have been modified in practice or by legislation over time:

■ The National Security Council is only an advisory body. That was the clear intent of Congress in 1947, written into law. It was further buttressed by a requirement that only persons “appointed by the President by and with the advice and consent of the Senate” could be made members of the NSC.<sup>21</sup> The only non-Cabinet level official mentioned in the law was the executive secretary of the council. In subsequent years, however, Presidents have created under their own authority the post of National Security Advisor and have given that selectee control of the ever-larger NSC staff. In some administrations, this official—who does not require Senate confirmation and who cannot be called to testify before Congress—has functioned not only as an advisor to the President but also as a policymaker and directive-issuer for the President. Congress has not challenged this development.

■ National security policy involves the integration of domestic as well as foreign and military policies. This was one of the original functions of the National Security Council listed in the 1947 law. But prior to 1993, with the creation of the National Economic Council, and 2002, with the creation of the Department of Homeland Security, little was done to include domestic and economic matters as part of national security policymaking. Now many more issues—from infectious diseases to climate change—are seen as qualifying as national security concerns.

■ Power should not be concentrated either in the Secretary of Defense or in any single member of the Joint Chiefs of Staff. Just before becoming the first Secretary of Defense, Forrestal told a friend, “This office will probably be the greatest cemetery for dead cats in history.”<sup>22</sup> By 1949, he and the Congress recognized that the Secretary of Defense needed broader authority to meet his responsibilities. Congress also created that year the nonvoting post of Chairman of the Joint Chiefs of Staff. In 1986, lawmakers made the Chairman “the principal military advisor” to the President, the Defense Secretary, and the NSC and made his consultation with the Service chiefs discretionary—as the Chairman considers appropriate.

■ The Services need to remain separate in order to protect their unique cultures and capabilities. This key assumption of the 1947

law was first modified in 1949 by the creation of a centralized Department of Defense under a Secretary with full “direction, authority and control.” The Goldwater-Nichols Department of Defense Reorganization Act of 1986 went further by strengthening the role of the Chairman of the Joint Chiefs of Staff and by imposing requirements for inter-Service collaboration in order to achieve the original purpose of “an efficient team of land, naval and air forces.”<sup>23</sup>

■ There should be no strong, central military staff. Lawmakers in 1947 were highly opposed to the creation of a general staff, saying it would “bring about the prussianization of our military system.” They prohibited the Secretary of Defense from having his own military staff and limited the Joint Staff for the Joint Chiefs to no more than 100 officers. In subsequent laws, Congress raised the ceiling for people, military and civilian, assigned to the Joint Staff. The limitation was finally repealed in 1991. Still on the books, however, is a 1958 provision declaring, “The Joint Staff shall not operate or be organized as an overall Armed Forces General Staff and shall have no executive authority.”<sup>24</sup>

■ Military consolidation saves money. A key argument at the beginning, and in several subsequent debates over defense reorganization, has been that elimination of duplicative activities should allow cost savings with no loss of effectiveness. In its 1958 revisions to the law, Congress added to the declaration of policy the intent “to eliminate unnecessary duplication” and “to provide more effective, efficient, and economical administration.”<sup>25</sup> While such efficiencies remain a high priority for defense managers and Congress, military effectiveness has become the key consideration in recent decades. Despite the costs involved, numerous reviews have decided to maintain certain capabilities and apparent redundancies—from the nuclear triad to the U.S. Marine Corps, from Service-based Special Operations Forces to separate personnel systems—for other reasons.

■ Congress must approve all changes in organization and spending. Congress has jealously guarded its power of the purse since the founding of the Republic. Creating the post of Secretary of Defense was seen by lawmakers as a means of improving congressional oversight of the military establishment by naming someone they could turn to for advice and with directions. Reorganization efforts in later years involved granting the Secretary greater flexibility over organizational changes, sometimes subject to a congressional

veto, sometimes requiring only notice and a waiting period. Congress has also established a complex system for review and oversight of transfers between defense programs and appropriations accounts, subject to dollar ceilings. Congress has resisted contingency funds often sought by the executive, however.

### Unfulfilled Expectations

Pending a full assessment of causes and consequences, there remain three areas in which the results of the 1947 law seem to have fallen short of the expectations of lawmakers at the time:

*Inadequate Integration.* Supporters of the 1947 act intended and expected that the structures they created for interagency coordination would lead to “integrated policies and procedures.” While some issues have been well coordinated over the decades, many have fallen victim to interagency disputes, bureaucratic politics, inadequate attention, insufficient resources, and the random errors of human behavior. The departments and agencies involved in U.S. national security have differing perspectives, cultures, authorities, resources, capabilities, and personnel systems. It takes time and extraordinary effort to develop agreed approaches to problems and then to oversee the implementation of policy decisions. Often, the result is a compromise that may be ambivalent in wording or otherwise inadequate to obtain unity of effort.

*Incomplete Integration of Economic and Domestic Policies.* Lawmakers were unclear in how they wanted economic and domestic policy issues linked to national security, but they knew it was important. Creation of the National Security Resources Board (NSRB) with its Chairman a member of the NSC signaled a determination to plan and coordinate “industrial and civilian mobilization,” to adjust the economy “to war needs and conditions,” and to plan for “the strategic relocation” of activities “essential to the Nation’s security” (section 103). The later bureaucratic evolution of the NSRB—to the Office of Defense Mobilization, to the Office of Emergency Preparedness, to the Federal Emergency Management Agency, to the Department of Homeland Security—shows the continuing recognition of the importance of high-level coordination of economic policies with national security impacts as well as homeland protection and continuity of government.

*Presidential Control and Accountability.* The National Security Council, as envisioned

in 1947, was supposed to give the President the advice he needed to make decisions and then coordinate the implementation of those decisions. In practice, however, Presidents have varied widely in their use of the NSC, in the degree to which they wanted consensus advice versus vigorous debate, in the size of the NSC staff and the powers given its members, and in the matters considered at the Presidential level. Time constraints limit the number of matters brought to the attention of senior policymakers. And many participants have observed that crises and the use of force often “suck the oxygen” from all other matters. In such real-life circumstances, it can be difficult for Presidents to maintain close control over important policy matters, or even to know whom to hold accountable for results.

Sixty years later, with the basic law little changed, it is time to assess whether the National Security Act of 1947 has worked as intended or needs further change. One test is whether the law succeeded in correcting the flaws noted in the Eberstadt report. During World War II, the report declared, “Strategic planning and operational execution were good,” but “there were serious weaknesses in coordination.” How does America stand now in closing the gaps cited in 1945? Are there still “gaps between foreign and military policy—between the State Department and the Military Establishments”? How wide now are the “gaps between strategic planning and its logistical implementation—between the Joint Chiefs of Staff and the military and civilian agencies responsible for industrial mobilization”? Has subsequent legislation adequately narrowed the “gaps between and within the military services—principally in the field of procurement and logistics”? How large and significant are the “gaps in information and intelligence—between the executive and legislative branches of our Government, between the several departments, and between Government and the people”?

Looking forward, the test is whether the basic law is adequate for today’s challenges and future threats. If the problems facing America are more daunting, the structures and processes for national security more complex, and the risks of failure more severe, is the current system good enough? Can it be made more effective without spawning confusion, resistance, and dangerous unintended consequences? Can we craft a system and processes in 2007 that will still look wise in 2017 and maybe even in 2047? **JFQ**

### NOTES

<sup>1</sup> Dwight D. Eisenhower, *The Eisenhower Diaries*, ed. Robert H. Ferrell (New York: W.W. Norton, 1981), 142.

<sup>2</sup> Amy B. Zigart, *Flawed by Design: The Evolution of the CIA, JCS, and NSC* (Stanford: Stanford University Press, 1999).

<sup>3</sup> Henry L. Stimson and McGeorge Bundy, *On Active Service in Peace and War* (New York: Harper and Brothers, 1948), 495.

<sup>4</sup> Clark Clifford, *Counsel to the President* (New York: Random House, 1991), 146.

<sup>5</sup> Townsend Hoopes and Douglas Brinkley, *Driven Patriot: The Life and Times of James Forrestal* (New York: Knopf, 1992), 322.

<sup>6</sup> U.S. Senate, 79<sup>th</sup> Cong., 1<sup>st</sup> sess., Naval Affairs Committee, Committee Print, “Unification of the War and Navy Departments and Postwar Organization for National Security,” October 22, 1945 (henceforth, Eberstadt Report), iii–iv.

<sup>7</sup> Ibid., 33, 36.

<sup>8</sup> Ibid., 30, 5.

<sup>9</sup> Ibid., 7, 6.

<sup>10</sup> Public Law 80–253, sec. 202(a).

<sup>11</sup> U.S. Department of State, *Foreign Relations of the United States*, 1947, vol. I (Washington, DC: U.S. Government Printing Office, 1973), 712–715.

<sup>12</sup> Congressional Record, U.S. Senate, July 9, 1947, 8299, 8308.

<sup>13</sup> Public Law 80–253.

<sup>14</sup> Public Law 80–253, sec. 2.

<sup>15</sup> Eberstadt Report, 17; Presidential Message to Congress, December 19, 1945, available in *The Department of Defense: Documents on Establishment and Organization, 1944–1978* (Washington, DC: Office of the Secretary of Defense Historical Office, 1978).

<sup>16</sup> Public Law 80–253, secs. 101 and 2; Eberstadt Report, 18; U.S. Senate, 80<sup>th</sup> Cong., 1<sup>st</sup> sess., Senate Report 239, “National Security Act of 1947,” 2.

<sup>17</sup> Paul Y. Hammond, *Organizing for Defense* (Princeton: Princeton University Press, 1961), 230.

<sup>18</sup> U.S. Senate, 79<sup>th</sup> Cong., 2<sup>d</sup> sess., Report 1328, part 2, “Department of Common Defense, Minority Views, to Accompany S. 2044,” May 13, 1946, 4, 5.

<sup>19</sup> Public Law 80–253, sec. 102.

<sup>20</sup> Eberstadt Report, 15; Public Law 80–253, sec. 202(b); 10 U.S. Code 151 (f).

<sup>21</sup> 50 U.S. Code 402(a)(7).

<sup>22</sup> Charles A. Stevenson, *SecDef: The Nearly Impossible Job of Secretary of Defense* (Washington, DC: Potomac Books, 2006), 7.

<sup>23</sup> 50 U.S. Code 401.

<sup>24</sup> Senate Report 1328, part 2, 79<sup>th</sup> Cong., 2<sup>d</sup> sess., 6; 10 U.S. Code 155 (e).

<sup>25</sup> Public Law 85–599, sec. 2.

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# *Austere Recovery of* **CARGO GLIDERS**

By KEITH H. THOMS, GERALD BERRY, and LEE JETT



DOD (Kosterman)

Glider pilots receive final instructions before takeoff on D-Day plus 1

Cargo gliders and their recovery technique offer proven capabilities that can revolutionize tactical sustainment. The technique also provides comprehensive expeditionary resupply that is fast, safe, and economical. This technology overflies the improvised explosive device threat as well as terrain lacking sufficient airports, seaports, and roads. Improving the speed, range, and efficiency of resupply hastens operational success and reduces casualties and materiel loss.

The increasingly nonlinear expeditionary battlefield stretches current resupply capabilities, including the entire seabased supply chain; rotorcraft ranges, capacities, and speeds; and tactics involving beachheads and ground convoys. The ship-to-objective maneuver and distributed operations of expeditionary maneuver warfare are effective vanguard multipliers to frontline strategies. However, the security, operational availability, throughput, timing, and expense of their rearward logistical support are issues when considering counterstrike, maintenance, higher elevations, and weather. Resupply across the “last tactical mile” to the warfighter is a challenge for tactical heavy airlift. The issues include unsecured lines of communication, seabase connectors, and unsophisticated ambushes.

The surprising delivery vehicle proposed for these challenges is derived from the World War II U.S. Army Air Force Cargo Glider, which predates helicopters, precision technologies, and intelligence preparation of the battlefield. Cargo gliders are usually remembered for their invasion application, and those aboard have earned a respected place in military history. While the system’s delivery effectiveness during early vertical invasion remains an emotional topic, the modern logistical implications of a cargo glider system were unrecognized until now. Cargo gliders were a multiplier to air cargo transport, and they can be considered an austere transport capability when combined with an effective operational recovery technique.

This article discusses a launching technique that was used more than many realize. With reconsideration, it could become a

modern force multiplier. Herein the incomparable U.S. snatch pickup history is described from a systems engineering viewpoint, with two World War II pilots, Gerald Berry and Lee Jett, providing invaluable insights. Right out of flight training, they became specialized tow pilots. The experience of these and other tow pilots offers fresh insight into the use of a historical system. It is given from the perspective of snatch pickup recovery. Its influence on the development of the largest cargo gliders is described, and a future concept is conceived.

### Snatch Pickup

The Marines first demonstrated aerial snatch pickup with leather dispatch bags in 1927 using a surplus World War I DH-4 biplane.<sup>1</sup> The All American Aviation Company, directed by Richard DuPont, applied this technique to rural airmail pickup in the 1930s.<sup>2</sup> In 1941, the glider snatch was developed using towlines made of DuPont Corporation’s nylon. Escalating through heavier sailplanes, this technique transitioned in 1942 at the Army Air Corps test and experimentation facilities near Dayton, Ohio, for postinvasion cargo glider recovery. There, an Army Air Corps captain, Lee Jett, learned from a great test team, refining the technique by experimentation.

out. The cable contacted and momentarily raised the tug’s elevator. The elevator fabric was damaged and later replaced. A pushbutton-activated pyrotechnic was devised for emergency cable separation.

Late in 1942, contracts were let for pickup equipment in the 8,000- to 16,000-pound range. A 1946 film of routine experimentation shows Jett snatching a 25,000-pound cargo glider.

Demonstration of runway takeoff with dual, towed cargo gliders occurred first at Wright Field, was later rehearsed before Operation *Neptune*,<sup>3</sup> and then was implemented in Operation *Varsity*. It is still occasionally performed with modern recreational sailplanes.

The sequential snatch of two gliders was demonstrated in July 1942. In the following years, Jett’s expert crew was photographed transferring the towline off the winch between pickups.

At least three wartime glider factories had snatch pickup for production delivery. Jett performed some 2,500 cargo glider and non-glider snatch pickups stateside. It was routine for him to snatch gliders from fields after towline breaks, typically during cross-country transfers. Towline separation was the main problem during snatch pickup. Neither Jett nor Berry recalls ever missing the ground station,

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### *the Marines first demonstrated aerial snatch pickup with leather dispatch bags in 1927 using a World War I DH-4 biplane*

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Jumping ahead to England in the spring of 1944, newly arrived C-47 pilot Lieutenant Gerald “Bud” Berry was qualified in 1 day with three snatch pickups. He made the first Normandy snatch pickup above an austere field in an airplane called a tug. Its pickup arm extended a steel cable and hook to catch the glider’s towline. The ground station had two poles with the towline looped tightly between them. The towline was caught and the winch onboard the tug paid out steel cable for several hundred feet. A preset clutch slowed and then stopped the cable payout. The reusable nylon towline stretched under the load. The glider accelerated 0.7 G into tow in 6 seconds.

The tug’s climb got the glider airborne quickly, primarily so they could both clear obstacles. The glider could climb faster than the tug. Lee Jett described a training incident in which an inexperienced glider pilot nosed too high during snatch climb

as less experienced pilots sometimes did. When another pilot repeatedly delayed recovery operations, Berry followed him in, surprising the glider’s crew after the predicted miss.

In the field, 485 cargo glider snatch pickups were documented across 4 theaters, and in 19 months they concluded half of the 8 major combat missions. Table 1 is the first comprehensive snatch pickup list.

*European Theater Operations.* Lee Jett’s legendary mentor, Major Lloyd Santmyer, was dispatched to North Africa for Operation *Husky* recoveries, but those gliders were no longer airworthy. Bud Berry towed one glider in Operation *Dragoon* but is unaware of any pickups in that operation. From table 1, of the total of 4,161 gliders sorted, 12 percent (485) were snatch recovered. Historians are surprised by this number and the variety of snatch pickups; the glider recovery infrastructure was initially discouraged on any significant scale in the European theater.

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**Waco CG-4A glider at National Museum of the U.S. Air Force**


U.S. Navy Air Force

**Table 1. U.S. Cargo Glider Operations and Snatch Pickup**

Theater and Mission	Date	Glider Sorties*	Snatch Pickups
<b>EUROPE</b>			
Operation <i>Husky</i> (Sicily)	July 9, 1943	136	0
Operation <i>Neptune</i> recoveries (Normandy)	June 23–25, 1944	517	13
Operation <i>Dragoon</i> (Southern France)	August 15, 1944	407	unknown
Operation <i>Market Garden</i> recoveries (Holland)	October–December 1944, February 1945	1,900	256
Operation <i>Repulse</i> (Bastogne, Belgium)	December 26–27, 1944	61	0
Remagen medical evacuation (Germany)	March 22, 1945	2	2
Operation <i>Varsity</i> recoveries (Germany)	April 1945	906	148
<b>CHINA-BURMA-INDIA</b>			
Exercise recoveries	January 9, 1944	16	16
Two covert actions (Chindwin, Burma)	February 28–29, 1944	5	1
Operation <i>Thursday</i> (Burma)	March 5–11, 1944	97	2 (R) <sup>†</sup>
Prisoner capture (Inywa, Burma)	March 11, 1944	4	3
Six delivery sites (Burma)	March 18–May, 1944	55	0 (R)
Medical evacuation, LZ Aberdeen (Burma)	March 21–22, 1944	6	1 (R)
Chindits ambushed (Mandalay, Burma)	1944	5	5
Family evacuation (Burma)	September 1944	1	1
Operation <i>Capital</i> medical evacuation (Burma)	October 1944	25	25
Radar shipment (Mawlaik, Burma)	February 12, 1945	5	5
<b>PACIFIC</b>			
Operation <i>Gypsy Task Force</i> (Philippines)	June 23, 1945	7	0 (R)
“Shangri La” valley rescue (New Guinea)	July 2, 1945	3	3
<b>ARCTIC</b>			
Alaska rescue	December 14, 1948	1	1
Greenland ice cap rescue attempts	December 17 and 25, 1948	2	3
<b>TOTALS</b>	<b>27 Missions/Operations</b>	<b>4,161</b>	<b>485</b>

\* Each mission’s count. Missions successfully securing a runway did not require snatch pickup.

<sup>†</sup> R denotes missions that successfully secured a runway; snatch pickup was not required.

Later, based on the return (or rather the lack of return) after Operations *Neptune* and *Dragoon*, this policy was reversed for post–Operation *Market Garden* in the first large-scale attempt at recovery. Unfortunately, an October 1944 storm wrecked an additional 115 gliders earmarked for pickup. Then the Battle of the Bulge suspended Bud Berry’s work. His squadron delivered 50 gliders for Operation *Repulse* in a wholly successful resupply landing at Bastogne. Those gliders absorbed ground fire, and the ensuing conditions meant Berry’s recovery skill was unneeded. His other theater “first” was a combat medical evacuation of a glider ambulance at the Remagen bridgehead just prior to Operation *Varsity*. Otherwise, all European snatch pickups were postinvasion salvage.

*China-Burma-India and Pacific Theaters.* These theaters demonstrated novel cargo glider applications in successful invasion, transport, and rescue operations. The Army Air Corps had several special warfare groups before the official formation of the Air Force Special Operations Wings. Lee Jett helped train codename PROJECT 9 pilots in glider snatch prior to their departure to China-Burma-India (CBI). They became the 1<sup>st</sup> Air Commando Group and utilized 150 cargo gliders to perform a series of successful disruptive actions starting with Operation *Thursday*. They transported and supplied the British coalition Chindit army in preventing the Japanese invasion of India by establishing a series of forward operating bases hundreds of miles behind enemy lines.

Training experimentation developed a straight-in final approach from 200 yards out rather than the traditional four-leg pattern. In a preparatory exercise in January 1944, 16 gliders landed in an unexpectedly muddy landing zone (LZ) and were snatched out the following morning. Two gliders were recovered the next month in a covert insertion behind enemy lines.<sup>4</sup>

Two snatch pickups provided an emergency replacement bulldozer to resume constructing the temporary airstrip code-named CHOWRINGHEE during Operation *Thursday* out of the Broadway LZ. In waiting for this nightfall delivery, the CHOWRINGHEE gliders were saved by being pulled into the jungle. This is notable in that they could have been dismantled and buried. CBI forward bases used conventional tows for surviving gliders off the recently established runway. Two damaged gliders left behind at

the successful but now abandoned CHOWRINGHEE field were strafed and set afire by a confused enemy. This played a part in delaying the discovery of the Broadway LZ. Later, five gliders out of Broadway delivered Chindit troops into a small clearing north of Mandalay. Anticipating this tactic, an enemy patrol surprised them. The Chindits immediately engaged them in a fierce firefight. Meanwhile, the circling tow planes dropped in low to release tow ropes. The gliders were hastily turned around and ground stations were assembled. Troops and crew reboarded the gliders and all aircraft escaped.<sup>5</sup> An undocumented mission resulted from a British officer's request to evacuate his Burmese family, who were at risk from routed enemy stragglers. Under a sniper threat, this snatch pickup took place from the jungle road in front of their home.<sup>6</sup>

Gliders compiled impressive statistics moving brigades, battalions, and supplies in combat. It was common during conventional transport for the CG-4A model to gross around 9,000 pounds, or 38 percent beyond rated payload capacity. CBI towlines failed when their dual towed, significantly overloaded gliders surged simultaneously during descent over mountains. Nor did glider designers envision an unusual payload with airlifted armies. Thousands of pack animals were transported, including horses, mules, and bullocks. CBI casualties were typically evacuated by C-47, light plane, and once in an R-4 helicopter. But in Operation *Capital*, 2 tugs towed 4 gliders to deliver 31,000 pounds of materiel and, in 25 snatches, evacuated 123 casualties from a location codenamed KATE.

The final documented CBI snatch pickups were at a shipping-receiving location by a river bank. It was easiest to bring gliders to the cargo and then snatch them for delivery to a radar installation.

Operation *Gypsy Task Force* would have had gliders depart by conventional runway tow rather than snatch pickup. The well-publicized "Shangri La" valley rescue used snatch pickup to extract crash survivors in the far inland jungle at a 5,000-foot elevation near hostile territory.

*Arctic Rescues.* Postwar arctic rescues used cargo gliders and snatch pickup. CG-15A models had winterized conversions.

Snatch pickup was demonstrated on the (presumed frozen) Arctic Ocean likely as part of a training exercise. There were two separate arctic rescue operations in December 1948. In Alaska, the pickup of six men from a downed transport was a successful historical footnote. Interestingly, the Greenland ice cap pickups were not successful.

On December 7, 1948, an Air Force C-47 crash-landed in the Greenland interior



**Left: Two-man crew of CG-4A glider**  
**Above: Jeep is loaded aboard CG-4A before invasion of Holland**

*two damaged gliders left behind at the abandoned CHOWRINGHEE field were strafed and set afire by a confused enemy*



**C-47 recovers CG-4 glider from Normandy landings**

at 8,000-foot elevation without injury to the crew.<sup>7</sup> The first rescue plane crashed. Next a glider was delivered. In 30 minutes, its crew set up for snatch pickup, but the towline snapped just as the glider became airborne. A second snatch repeated the problem. High winds destroyed the glider overnight.

On Christmas Day, a second glider failed again when its nose was destroyed by towline whip-back. The still-uninjured survivors and rescuers were finally evacuated after 3 weeks by a ski-equipped C-47 using jet-assisted take-off rockets. Unlike the powered aircraft, there is no official accident report for the two gliders, so why the towlines broke during the only documented snatch pickup failures remains a mystery.

### **Glider Evolution to Snatch Pickup**

While not a discipline until after this era, the influence of systems engineering principles guided the evolution of the invasion glider toward austere recovery.

The CG-4A was the renowned World War II invasion glider, which was built by 16 prime contractors across the United States. The model was intentionally low technology so nonaviation manufacturing industries could convert to war production on a large scale. Many saw it as a vehicle for one-way delivery of Army infantry to unimproved landing zones, where the gliders would be abandoned. While, by aircraft industry standards, it was indeed a low-tech assembly with budget-conscious materials, the reality was much different than expected:

- The CG-4A had 70,000 parts.
- Subcontracting for those parts proved problematic.
- Many converted production industries failed to deliver useful quantities.
- Targeted production cost for disposable delivery was never achieved.
- Assault operations proved unexpectedly dangerous for still-maturing insertion tactics.
- The towline mounting was off-axis, inefficient in snatch pickup, and hence, reuse.
- One glider was snatch-recovered for every eight sorties. The majority of missions attempted it.

A significant majority of cargo gliders *did* deliver successfully to unimproved LZs. However, not much of military significance was recovered postinvasion. For many reasons, the high-volume European theater failed in large-scale retrieval:

- The invasion mindset did not contemplate reuse for the next major assault; each assault was to be the last.
- Effective countermeasures were employed.
- Gliders were treated akin to trailers; they were not assigned call numbers and were referenced by model number.
- While those forward would disagree, from a planning perspective, there was a robust supply of fresh inventory.
- Gliders landed intact within tree-lined fields, preventing the snatch maneuver.
- Components did not survive prolonged or harsh exposure to the elements and were scavenged by troops and locals.
- Thus, there was a dearth of snatch training and equipment for air and ground crew.

Nonetheless, glider snatch pickup did occur far more often and in more ways than expected in the other theaters. Follow-on glider development emphasized survivability and capacity. Assets that survived were reused. Consequently, greater pickup capacity developed in the last generation of cargo gliders as designers looked beyond the European theater.

The Pacific theater had less reliable lines of communication because of its topology. This had a significant influence on expeditionary logistics. Compared to the Atlantic and overland supply lines of Europe, the Pacific island-hopping depots had transfer

complexity, as well as hostile and sea environment threats. An end link to that supply chain was larger capacity gliders than the CG-4A. Table 2 lists production cargo gliders by weight. It includes the two XCG-10 prototypes later converted into CG-10As.

The design of the CG-4A was good enough to press into wartime service. However, it and even its intended successors, the CG-15A and CG-13A, were not well engineered by modern standards. They were produced with unacceptable performance shortcomings. The baseline model for any modern comparison starts with the last and greatest production cargo glider model, the

Laister-Kauffman CG-10A. The operational CG-10A was an impressive feat of engineering. It was high-tech for the day and produced by one vendor. Passing a mature test and acceptance process, at V-J Day the CG-10A was in full-rate production for the upcoming invasion of Japan. Features that were firsts for U.S. aircraft include:

- rear doors under a high tail
- strongest, lowest floor at the time
- landing gear to the sides of the fuselage rather than under the wings
- quadruple-disc hydraulic brakes

**Table 2. Production Cargo Gliders by Weight**

Model	Weight (lbs.)	Wingspan	Speed
CG-4A	3,500–7,500	83 feet, 8 inches	41–150 mph
CG-15A	4,000–8,035	62 feet, 2 inches	53–180 mph
XCG-10	7,980–15,980	105 feet, 0 inches	50–150 mph
CG-13A	8,900–19,100	85 feet, 8 inches	80–190 mph
CG-10A	12,000–32,000	105 feet, 0 inches	50–180 mph



**Jeep aboard CG-10A cargo glider**

- capacity to carry a 2½-ton truck or 155-mm howitzer
- capacity to carry 60 paratroopers
- thick wing skin
- largest proven-successful, nearly all-wood aircraft (the only structural metal was in the nose for snatch pickup).

## Epilogue

In all, the United States produced 14,471 cargo gliders. In-theater missions sent 4,161 gliders (including reuse). There were at least 485 in-theater snatch pickups. Hardly an exception, these were arguably routine. Attempts are known to have followed 17 of 27 missions and operations. (Details of any Operation *Dragoon* recovery remain unknown.)

After World War II, production terminated and development faded. Many in the glider production industry had actually envisioned a bright future in commercial passenger service, which never occurred. Lee Jett interviewed with a company called Winged Cargo, which hauled fresh produce in surplus CG-4As, but the company did not last. Rather, bulk transport turned to runway-based powered flight and air assault to helicopters. The Marines developed vertical envelopment in 1947. Helicopters overcame their practical shortfalls and continue to offer tactical precision in austere transport.

Likewise, the blossoming seabased supply infrastructure proved unjustified in light of ensuing expeditionary logistics. The Cold War established forward bases with invasion supply links typically less than 600 miles by sea. Combining the helicopter with forward land bases essentially masked their individual logistical disadvantages, includ-

ing centralized depots, high maintenance, fuel consumption, and short delivery legs. This combination then effectively extinguished the expeditionary advantages of cargo gliders and snatch pickup in austere logistical transport.

## The Future

This backdrop will hopefully encourage a rediscovery of the efficiency that the snatch pickup of cargo gliders offers. Expeditionary logistics is changing from the Cold War supply infrastructure. The seabase is replacing forward land bases. But the nonlinear battlefield is restrained by a resupply chain that remains linear. The stretching of the seabase's unsecured lines of communication and the restricted space afloat now expose those aforementioned supply chain disadvantages. The use of rotorcraft from the seabase is ideal for many aspects of expeditionary maneuver warfare, but not for comprehensive sustainment on the scale required of the seabase maneuver element. Modeling of the year 2015 seabase performance for value in technology improvement<sup>8</sup> has led to a seabase-centric connector concept. Then the search for similar military experience uncovered these insights into World War II accomplishments. Snatch takeoff roll distances are close to supply ship helipad dimensions even with multi-ton payloads. Sea motion is mitigated by a balloon intercept similar to the surface-to-air recovery system used in the 1960s.<sup>9</sup>

Preliminary Newtonian modeling of glider launch forces shows snatch pickup to be physically viable from flight decks, abeam across helipads, and even the littoral water surface. Performance modeling of seabased maneuver sustainment ashore using only

snatch pickup of logistics gliders shows a capability from over two to four times the delivery requirement. Ashore, ever-increasing land clearing and development—including road networks, parking lots, sports fields, and stadiums—make glider landing zone selection less predictable, while amphibious landing locations and convoy routes become more so as those options decrease. Weapons effects used to be the limiting factor to the expeditionary battlefield. Now it is its logistical support to the warfighter.

As with any new heavy airlift system, snatch pickup of cargo gliders implies many novel interfaces between expeditionary air and ground logistics communities. It will be both a technical and cultural challenge to fit into these communities' missions. Overland and from the sea, modernized glider snatch—carefully reconsidered—augments austere cargo delivery in overlapping options for paradrop and air, ground, and water surface connectors. **JFQ**

## NOTES

<sup>1</sup> Leon B. Spencer, "WWII U.S. Army Air Force Glider Aerial Retrieval System," available at <[www.silentwingsmuseum.com/images/Web%20Content/WWII%20USAAF%20Glider%20Aerial%20Retrieval%20System.pdf](http://www.silentwingsmuseum.com/images/Web%20Content/WWII%20USAAF%20Glider%20Aerial%20Retrieval%20System.pdf)>.

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<sup>7</sup> John L. Frisbee, "Valor: Greenland Rescue," *Air Force Magazine* 81, no. 3 (March 1998), available at <[www.afa.org/magazine/valor/0398valor.asp](http://www.afa.org/magazine/valor/0398valor.asp)>.

<sup>8</sup> Gary S. Schebella, *Sea Base Concepts of Operation and Logistics Technology Applications* (Performance Analysis and Investment Strategies), JMS System Science Corporation, April 2006.

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CG-4A converted to carry medical litters

# Off the Shelf

## Thoughts on Building Joint-Mindedness

By BRIAN J. HANLEY

One useful way to advance *joint-mindedness* is to work from a rather eccentric but nonetheless worthy definition of the term. “Acquiring a firm understanding of the other fellow’s view of the battlespace” is a good place to start because such a frame of reference illuminates the history and justifies the doctrine and culture of the individual military departments. There are multiple ways to achieve this, but here is a do-it-yourself approach for the joint warfighter that can pay big dividends: read war memoirs written by authors from other branches of Service. The natural sympathy between members of the same profession will stand in relief against the ephemeral circumstances of place, time, and weaponry. Officers who read widely in military autobiography are far more likely to resist parochial outlooks even when they take pride in their own Service traditions and achievements.

What follows is a survey of three memoirs that are not as well known as they should be. What makes these books attractive to junior and midgrade officers in particular is that the authors are their peers. The narratives focus not on the palace intrigue of senior commanders but on the face of battle as experienced by frontline combatants. Hardly less compelling are the lucidity and universality of these accounts.

*Retreat from Moscow: The Memoirs of Sergeant Bourgogne 1812–1813* (London: The Folio Society, 1985) is indispensable to the joint warfighter for a couple of reasons. First, Bourgogne’s narrative—written in 1835 but not published in English until 1926—represents one of the earliest memoirs written by a common soldier, universal literacy being largely a product of the 20<sup>th</sup> century. Second, we find here, as in most accounts written by frontline soldiers, that strategic and operational concerns are remote—for the most part invisible—to the mass of combat troops. Bourgogne’s book thus transcends time and place in ways that campaign histories, which are anchored to specific engagements and the guiding hand of individual commanders, cannot. Undoubtedly, Soldiers fighting today in Iraq and Afghanistan will write first-hand accounts of battle that will have far more in common with Bourgogne than might be suggested by the technology they employed or the spot on the earth where they fought.

Bourgogne entered military service in 1805 at the age of 20. Within a few years, he amassed an impressive record, fighting valiantly in Napoleon’s campaigns against the Russians, Prussians, and English. In March 1812, he was serving in Portugal when his regiment decamped for Russia. Bourgogne’s memoir begins on June 25, 1812, and ends in mid-January 1813, when his regiment—not much more than a collection of bedraggled starvelings—reached Elbing, just beyond the reach of the Cossack cavalry.

Bourgogne was one of the first troops to enter Moscow on September 14, 1812, but the triumphal atmosphere soon melted away. Five weeks later, Bourgogne’s regiment was ordered to deploy outside the city on the pretense that Tsar Alexander, seeking victory by breaking an armistice, ordered a surprise attack on a French cavalry outfit. The reality was that Napoleon had initiated not a counteroffensive but a strategic withdrawal.

There is a grim sameness to the remaining four-fifths of Bourgogne’s narrative. He and his fellow soldiers faced the worst possible situation: retreating ill-clad at the onset of a Russian winter, bereft of reliable sources of food, water, shelter, ammunition, and pursued by a savage and resourceful enemy intent on exacting revenge. Within a couple of weeks after leaving Moscow, Bourgogne was forced to survive on the flesh, but more often merely the blood, of worked-to-death horses and whatever other food he could scrounge from the countryside. Lice were constant companions. Marauding Cossack horsemen frequently menaced Napoleon’s west-bound troops—though from Bourgogne’s descriptions the retreating army must have appeared more like a motley band of battered refugees. Bourgogne spent days on end clinging to groups of stragglers or making his way alone against the snow, frost, and enemy cavalry. Some of the death scenes were horrifyingly ironic. Upon reaching a Prussian village where food and drink were startlingly plentiful, for instance, 1,500 soldiers froze to death, having fallen asleep after binging on spirits and wine. By the end of the narrative, the reader is amazed that Bourgogne survived to write about his experiences.

Joint warfighters will also find much treasure in *Japanese Destroyer Captain* (Annapolis: Naval Institute Press, 2007), Tameichi Hara’s memoir of combat in the Pacific during World War II. Most of the book is given over to Hara’s experiences as a commander of warships engaged in battle. Readers are not diverted by states of mind and attitudes that do not bear on Hara’s duties, nor are they overawed by details strictly of private concern. There is just enough personal commentary to size up Hara’s character—always a solid predictor of judgment and behavior—and to assess his reliability as a witness to major events.

Respectful of his samurai heritage, sensibly ambitious, and possessed of a lively intelligence but without the financial means to attend university, Hara was drawn to the Imperial Japanese Naval Academy, where he graduated in 1921. The next two decades were spent at sea, the one exception being an assignment as a surface warfare instructor in 1932.

Hara proved an outstanding tactician, which attracted the esteem of Captain (later Admiral) Chuichi Nagumo. But there were limits as to what the senior officer could do for a protégé. In spite of Nagumo’s tutelage, Hara failed the staff college entrance exam, which normally would have derailed any chance for rapid advancement in Japan’s peacetime navy. But Hara had no passion for staff work (in fact, he did not make much of an effort to pass the exam), nor was he obsessed with attaining rank. Rather, he wanted a teaching assignment so he could finish rewriting the Imperial Navy’s torpedo doctrine, a self-initiated project that had interested him since his initial sea tour. Completed in mid-1932, Hara’s doctrinal revisions were accepted by the navy and immediately improved the marksmanship of Japan’s destroyer fleet—a circumstance that would contribute to Japan’s early surface victories against Allied navies.

This episode illustrates Hara’s stout moral and intellectual constitution. He rejected a highly prized staff college slot under the sponsorship of an up-and-coming senior commander and instead chose a path that offered a remote and uncertain payoff. Like all pioneers of military doctrine, but most especially in Hara’s case given that he was a junior officer at the time, he took an immense risk by rejecting convention in order

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to reform what was regarded as a settled idea. Surprisingly, senior navy leaders—despite being as tradition-bound as one might guess—were persuaded. Hara ended up helping the navy far more than what might have been expected from someone of his rank, position, and relatively narrow experience.

Naval combat between surface ships during World War II may strike the untutored reader as free of many factors that create confusion between the tip of the spear and higher headquarters during land and air combat. At sea, there are no civilians to obstruct the seizure of an objective and no buildings to hide snipers or booby traps. Ship-against-ship battles develop at a snail's pace compared to air-to-air combat between even World War II-era warplanes. Sailors fight under the eye of senior commanders, unlike the front-wave infantry platoon that can choose not to advance or the bomber pilot who jettisons the payload in the face of heavy antiaircraft fire. Even so, Hara's memoir amply demonstrates that fog and friction dominate fighting at sea as much as they do anywhere else.

Few autobiographies published nowadays can compete with the eloquence, clarity, and perceptiveness of Cecil Lewis' memoir, *Sagittarius Rising* (London: The Folio Society, 1998). Aviation enthusiasts will find Lewis' descriptions of flight unforgettable, and certainly this book is a must-read for Eagle Scout students of World War I. Joint warfighters will find the book worthwhile for its depiction of the inaugural integration of airpower into operational campaigns. Lewis is no purveyor of airpower theories, but his narrative illuminates the beginnings of what we now call "air-mindedness." His memoir shows that, from the beginning, air forces could not help but view war radically differently from how it was understood by land forces, even though all of his missions were in support of ground operations. Lewis embodies the aviator spirit that transcends time, place, and doctrine: a breezy indifference to the bounds set by tradition, brashness, recklessness, a trace of whimsy, and an enthusiasm for technical innovation.

When Lewis joined the Royal Flying Corps in the autumn of 1915, the war on the continent had long since reached stalemate. Armies of both camps were exhausted; fighting and disease had thinned ranks by hundreds of thousands. None of this much influenced Lewis' outlook on military service. He had joined because he wanted to fly airplanes. Unlike today, when entry into flight training requires that candidates pass a rigorous mental and physiological screening, Lewis managed to gain a spot simply because he volunteered. His experiences illustrate the aeronautical origins of the term "seat of the pants." Lewis' training was without anything we would recognize as structure. There existed no syllabus, checklists, or International Civil Aviation Organization regulations to master.

Lewis joined a frontline combat unit with a flying time of only 14 hours. He discovered that doctrine was nothing more than a distillation of the experiences of his fellow pilots. Often, Lewis and his squadron mates were assigned missions that they and their equipment were unsuited for, such as flying night patrols to intercept German bombers that attacked London. He handled all these things as well as the unreliability, fragility, and idiosyncrasies of the types of planes he flew allowed, and with marvelous aplomb.

*Sagittarius Rising* offers an eloquent account of the Great War from an unjustly neglected point of view and also portrays with great skill and artistry the birth of a new weapon. But the book offers more than that. Lewis' memoir embodies the exuberance that in part defines the military aviator's spirit, which lives on in today's air and space expeditionary forces. **JFQ**



**Leading at the Speed of Light:  
New Strategies for U.S. Security  
in the Information Age**

by Daniel M. Gerstein

Washington, DC: Potomac Books,  
2006

206 pp. \$24.00

ISBN-13: 978-1-59797-060-0

Reviewed by

DANIEL BALTRUSAITIS

**H**ave globalization and the information age changed the basic nature of strategic leadership? Daniel Gerstein argues that the United States is at a critical juncture in history. According to Gerstein, American leaders must be able and willing to respond to the challenges of the information age by developing the structures, organizations, and insights to continue U.S. dominance on the international stage. He critiques the United States for following an industrial-age national security framework when a new structure is required. Unfortunately, his attempt to reformulate the U.S. approach to strategic leadership falls short of hitting the mark by attempting to accomplish too much with too little.

Gerstein opens by arguing that the U.S. security apparatus has failed to meet the challenges of the information age, providing several examples ranging from the war on terror to the response to Hurricane Katrina. However, he fails to address the key causes of these government tribulations: Are they failures of government, or a failure of a particular

administration? By not facing the causal patterns of these failures, he misses an opportunity to address the root problem, which he assumes is a systemic failure of leadership. Gerstein proffers a change to the U.S. security apparatus based on this assumption without having convinced the reader that he has identified the endemic problem.

The author next offers a quick—too quick—review of strategy and leadership. In a chapter titled "Lists of Lists," Gerstein examines some common approaches to leadership. In his attempt to condense "the essence of leadership" from multiple vignettes, Gerstein chooses to use the leadership equation developed by Elliott Jaques and Stephen D. Clement in *Executive Leadership: A Practical Guide to Managing Complexity* (Blackwell Publishing, 1994) to highlight leadership concepts. His selection of this model (which defines ability for leadership as a function of cognitive power, values, skilled use of relevant knowledge, wisdom about people and things, and serious personality/temperament defects) was unusual in that he did not sufficiently argue why that model was more applicable than any other approach to leadership. How does one measure values? Are they as directly relevant as cognitive power? Unfortunately, for an author aiming to change U.S. strategic leadership, Gerstein's review is too broad and shallow. Instead, the reader would gain a greater sense of the challenges of transformational leadership by reading Jack Uldrich's *Soldier, Statesman*,

*Peacemaker: Leadership Lessons from George C. Marshall* (American Management Association, 2005), or *American Generalship: Character Is Everything: The Art of Command* (Presidio Press, 2000), by Edgar F. Puryear, Jr.

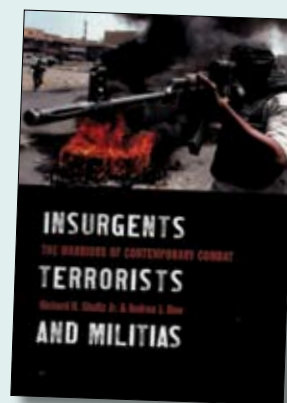
Gerstein is more on the mark in his discussion of globalization, the information age, and their influence on 21<sup>st</sup>-century leadership, but even that discussion has limitations. He uncovers several interesting insights for leadership in the information age. He argues that the United States is losing wars of ideas because it tends to respond with tools from the physical domain—money and force—rather than ideas and “soft power.” He also states that moral leadership is increasingly important because the expectation of privacy and discretion is nearly unrealistic in the CNN world. Finally, he correctly cautions the modern leader on the dangers of the “blizzard of information” inherent in the digital age but fails to offer solutions other than the need for better decision support tools. In contrast, Christopher Lamb and Irving Lachow offer much more useful prescriptions for digital age leadership in issue 43 of *Joint Force Quarterly*. In their article, “Reforming Pentagon Decision-making,” Lamb and Lachow offer an excellent organizational plan to build a decision support cell to improve strategic decisionmaking. *Speed of Light*, on the other hand, lacks such a well-thought-out plan on how to implement an improved leadership approach. Gerstein offers no solution on how to restructure government for the information age other than ordering a congressional review for reorganization. He calls for a congressionally mandated government reorganization similar to the National Security Act of 1947. The reader would expect a more comprehensive plan for government reorganization that goes beyond a mere call for a review of the U.S. national security system.

Gerstein makes interesting arguments regarding the need for

strategic changes, but those arguments need more development. He concludes the book with three vital themes for enhancing American security: developing a new U.S. strategy for the information age, establishing a system of national service, and committing to a greater national investment in the promotion of the benefits of globalization. The author’s intent was to establish “reach goals” for improving national security rather than attempting to make small marginal changes. Unfortunately, his discussion of these three reach goals could not be adequately covered in the 25 pages devoted to the topic. For example, as part of developing a new strategy for the information age, Gerstein advocates a need for an end-to-end system for consequence management. Although this idea is compelling, the author fails to break out Federal, state, and local responsibilities, nor does he discuss impact of such changes on executive branch power. He falls short in tackling important questions such as the relationship of Federal to state rights. What is the role of a state Governor in a catastrophic condition such as Hurricane Katrina? Do we change the Federal emergency response system completely because Louisiana’s hurricane response was inferior to the well-practiced system in Florida?

Overall, *Speed of Light* highlights some interesting ideas on the need for strategic leadership to address the challenges of the information age; however, this work suffers from the lack of development of Gerstein’s key concepts and ideas. **JFQ**

**Colonel Daniel Baltrusaitis, USAF, is a PhD candidate in International Relations at Georgetown University.**



**Insurgents, Terrorists, and Militias: The Warriors of Contemporary Combat**

by Richard H. Shultz, Jr., and Andrea J. Dew  
New York: Columbia University Press, 2006  
328 pp. \$29.50  
ISBN: 0-231-12982-3

Reviewed by  
DANIEL MCINTOSH

*Me and my clan against the world;  
Me and my family against my clan;  
Me and my brother against my family;  
Me against my brother.*

—Somali proverb

**S**hultz and Dew, professors in the Tufts University International Security Studies Program, observe that wars today involve nonstate armed groups—insurgents, terrorists, and militias—with goals and methods different than those of the “modern” soldier. While the conventional soldier is trained for a world of armies and states, he finds himself in battle against tribal warriors, engaged in “primitive warfare.”

The authors suggest that the unique characteristics of tribal and clan conflict—founded on cultural notions of prestige, vendetta, revenge, raiding, and glory—should be placed near the center of analysis. “Soldiers and warriors,” they argue, “are not the same. They come from different tradi-

tions, fight with different tactics, see the role of combat through different eyes, are driven by different motivations, and measure victory and defeat by different yardsticks” (6–7). Therefore, analyses of order of battle and doctrine (concepts that may not even apply to fractured, amorphous, primitive combatants) only make sense in the context of local history. Culture and tradition—norms, values, institutions, customs, and modes of thinking—shape how force will be used, and why.

To structure their analysis, Shultz and Dew suggest a six-factor framework intended to provide a commander with an operational-level assessment of the primitive warrior. The first factor, the “concept of warfare,” explores assumptions about the nature of war. Next are “organization and command and control,” “areas of operation,” and “types and targets of operations.” The fifth factor, “constraints and limitations,” considers if any codes of conduct regulate the use of force, while the sixth factor, the “role of outside actors,” looks to states and nonstate actors and the range of assistance they supply.

The authors are at their best in the difficult process of applying the framework’s factors, each simple in the abstract, to case studies. They consider the implications of tribal solidarity based on unilineal descent as well as a weak division of labor that makes every male a de facto warrior. Taken together, these issues are a source of both strength (internal cohesion) and weakness (lack of coordination). Tribes by their nature will remain relatively small, their leaders charismatic, and their coordination nearly impossible—except to fight outsiders. Given these traditions, a successful state built on a tribal society will tend to be authoritarian, a tool for one tribe or clan to dominate the others. Legitimacy will be local, not national. But a perceived

threat from outside, coupled with a rising sense of a transnational obligation in terms of various forms of Islam, enables tribe-based insurgents to work together.

The pattern reoccurs on a smaller scale with clans. Each clan, a subdivision of a tribe, occupies and exploits a tribal region in conjunction with other clans, and problems that a tribe presents to a state are a macrocosm of the problems that clans present to a tribe. Members of a clan trace themselves to a common ancestor and maintain a principle of collective responsibility. Thus the clan, not the law, provides the ground of trust and mutual obligation that make cooperation possible. Clan solidarity provides identity and order, even in the form of transnational networks and criminal groups.

Clans and tribes live in a world of routine violence in which politics is almost entirely zero-sum and where family and God are more important than state or law. To deal with this world, they have developed traditional means to channel and regulate that violence—blood money, vendetta, intermarriage, mediation by elders, limitations on targets—but these methods lose much of their relevance in dealing with outsiders, and in the wake of colonialism and postcolonial anarchy, concepts like jihad are used to justify the expansion of violence to new targets.

These patterns link a series of post-1990 case studies. In Somalia, a clan-based “culture of confrontation” is founded on nomadic traditions. In Afghanistan, identity is linked to conflict: the warrior defines himself in relation to the group that opposes him. Thus, while the anti-Soviet mujahideen differed significantly, there was sufficient common cause to maintain a war of raids and ambushes. In Chechnya, extended patrimonial families continue to celebrate violence and warrior skills as integral to the way of life. There, as in Afghani-

stan, whatever limits on violence existed disappeared in opposition to Soviet brutality. In Iraq, the “mystique of the raid” predates the state-tribalism of Saddam and continues to influence the various elements of the insurgency.

Building on the cases, Shultz and Dew find there are cultural, as well as logistical, reasons why primitive warrior units will be small and organized by tribe and region and will operate through ambush and raid. They also find that traditional methods adapt well to the urban battlefield, and over time, one should expect traditional limits on violence (especially when directed against outsiders) to weaken. Finally, outside actors have pushed to continue and expand the violence. The multiple case study approach illuminates the transnational networks that link and educate clans, to see how Chechens, for example, trained and fought in Afghanistan, other Afghan veterans brought their lessons to Somalia, and foreign Islamists in Iraq were the first to ignore traditional limits on violence.

Shultz and Dew propose that an awareness of how tribes and clans operate creates opportunities for the soldier. The American invasion of Afghanistan, for example, is hailed as an illustration of how understanding the culture multiplies combat power, while the results in Iraq are presented as what happens when one makes plans without a sense of how local culture works. They push the reader to consider that the “primitive” enemy has a logic of his own that can be anticipated and used against him. They show that while the logic of clan violence is not the only factor to consider, it is one we ignore at our peril. **JFQ**

**Daniel McIntosh is Associate Professor of Political Science at the Slippery Rock University of Pennsylvania.**



**Air Power in the New Counterinsurgency Era: The Strategic Importance of USAF Advisory and Assistance Missions**

by Alan J. Vick, Adam Grissom, William Rosenau, Beth Grill, and Karl P. Mueller

Santa Monica, CA: RAND, 2006  
204 pp. \$25.00

ISBN: 978-0-8330-3963-7

*Reviewed by*

EDWARD B. WESTERMANN

**A**ir Power in the New Counterinsurgency Era delivers far more than the title implies. In the best tradition of RAND studies, this work combines theory, model development, and policy applications for developing counterinsurgency (COIN) strategy writ large and for improving U.S. Air Force COIN capabilities specifically.

The first half of the study analyzes the emerging strategic environment and examines the nature and importance of contemporary insurgencies, especially those being leveraged by global jihadists, to U.S. national security interests. The authors correctly place the issue of military counterinsurgency strategy within the larger framework of grand strategy involving political, diplomatic, social, economic, and law enforcement efforts. While stressing the essentially political nature of COIN, the authors argue that

the nature and extent of the U.S. military response requires a cost-benefit analysis based on the level of risk and expense tied to the probability of success. With respect to military means, they argue: “The most effective means for the U.S. military to contribute to the defeat of insurgencies is indirectly, through advisory and training missions” (146).

With respect to model development, the work provides a useful dual typology for describing COIN strategy: a precautionary approach or a remedial approach. In the case of the former, early detection and timely intervention provide the keys to preventing nascent insurgencies from evolving into movements threatening regime stability. If an ounce of prevention is better than a pound of cure, then the cases of the recent Georgia Train and Equip program and the U.S. effort in El Salvador in the 1980s offer cost-effective options that allowed host governments to effectively marginalize or defeat insurgent groups, obviating the requirement for large-scale U.S. involvement. In cases of established insurgencies, the remedial strategy draws on a true inter-agency approach incorporating phased or graduated military responses ranging from training and advisory functions to the participation of forces in direct

combat operations, as exemplified in Iraq and Afghanistan.

The second half of the work focuses on the employment and efficacy of airpower assets in the counterinsurgency role and provides recommendations for senior Air Force leaders for enhancing Service COIN capabilities. Above all, the authors insist that "COIN be treated as a problem as important as conventional warfighting even though the manpower, dollars, and force structure devoted to it will likely never need to be as large as that devoted to major combat operations" (xii-xiii). In truth, this assertion constitutes a major challenge for a Service that historically has seen the air advisory and training function as little more than a sideshow to the main effort. Within the U.S. Air Force, the air advisory mission has benefited from tepid rhetorical and minimal materiel support at best, and, at worst, has suffered from outright neglect.

According to the authors, the "single most effective means" for reversing the traditional neglect of this mission and expanding USAF expertise involves "the creation of a wing size organization dedicated to aviation advising" (136). In addition, the study advocates personnel initiatives designed to identify, train, and promote officers and noncommissioned officers who choose the air advisory career path. However, the fundamental challenge involved in creating a robust air advisory capability centers less on specific organizational initiatives than on the creation of a new institutional mindset among the senior leadership. As Stephen Rosen highlights in *Winning the Next*

*War: Innovation and the Modern Military* (Ithaca, NY: Cornell University Press, 1991), military innovation requires advocates within the senior flag ranks of the affected Service. Indeed, the U.S. Army's adoption of the airmobile concept in the 1960s provides an apt model for the current Air Force air advisory effort. The creation of the Army's air mobility capability resulted from the patronage and support of Generals James Gavin and Hamilton Howze, the transfer of "blue chip" or "fast burner" colonels from the traditional combat branches into the new combat arm, and the promise of promotion opportunities for mid-career and junior officers. Similarly, the creation of a viable and effective U.S. Air Force air advisory mission will require all of these steps along with the investment of substantial financial resources from a limited budget.

*Air Power and the New Counterinsurgency Era* is a work of critical importance for Air Force senior leadership and the rank and file. It offers a prescient analysis of COIN warfare and strategy and provides trenchant recommendations for enhancing the Service's capability in the long war against Islamic extremism. In the end, however, Service priorities determine resource commitments, and it remains to be seen if the U.S. Air Force will invest in an air advisory ounce of prevention or remain wedded to a conventionally based pound of cure. **JFQ**

**Colonel Edward B. Westermann, USAF, is a Senior Military Professor in the Department of Military Studies at the U.S. Air Force Academy.**

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### Strategic Forum 229

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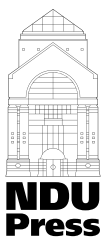
David T. Armitage, Jr., notes the difficulty of cooperation between the United States and the European Union (EU) in the war on terror. The governments of the 27 EU countries maintain separate counterterrorism policies, but the threat crosses borders and sectors. Although the major terrorist attacks in Europe have been against transportation infrastructure, information systems, energy networks, and food supplies are vulnerable. Armitage recommends a multilevel, multisector approach by which the United States continues to pursue avenues of cooperation at the national, EU, and North Atlantic Treaty Organization levels.

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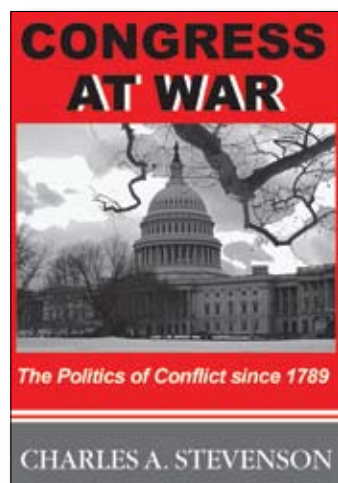
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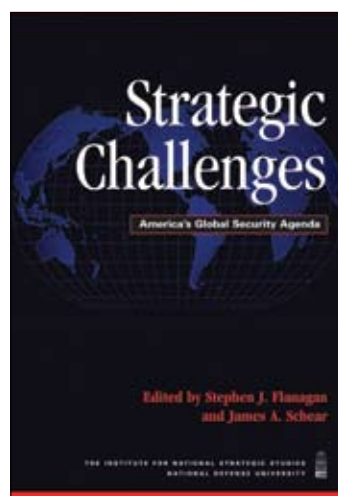
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Published for the Institute for National Strategic Studies  
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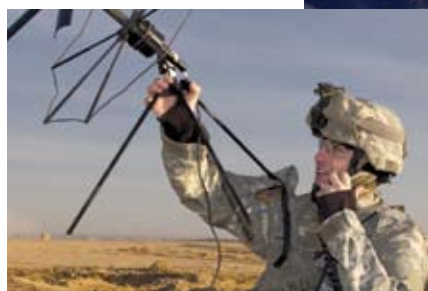
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